DOCUMENT RESUME

ED 399 903 HE 029 539

TITLE	Hearing on Campus Crime and H.R. 2416 To Amend the Higher Education Act of 1965 To Require Open Campus Security Crime Logs at Institutions of Higher Learning before the Subcommittee on Postsecondary Education, Training and Life-Long Learning of the Committee on Economic Aid and Educational Opportunities. House of Representatives, One Hundred Fourth Congress, Second Session.
INSTITUTION	Congress of the U.S., Washington, DC. House Committee on Economic and Educational Opportunities.
REPORT NO	ISBN-0-16-052945-x
PUB DATE	6 Jun 96
NOTE	354p.; Contains pages of small print that may not reproduce clearly. Serial No. 104-56.
AVAILABLE FROM	U.S. Government Printing Office, Superintendent of Documents, Congressional Sales Office, Washington, DC 20402.
PUB TYPE	Legal/Legislative/Regulatory Materials (090)
EDRS PRICE	MF01/PC15 Plus Postage.
DESCRIPTORS	Campuses; Colleges; Compliance (Legal); *Crime Prevention; Hearings; *Higher Education; *Law Enforcement; *School Security; Security Personnel; Universities; *Victims of Crime
IDENTIFIERS	*Crime Awareness and Campus Security Act 1990; Proposed Legislation; Student Right to Know and Campus Security Act

ABSTRACT

This Congressional hearing report covers testimony given to the Subcommittee on Postsecondary Education, Training and Life-Long Learning relating to the issue of crime on college campuses. Specifically the testimony addressed a proposed bill before the House of Representatives, the Open Campus Police Logs Act, which would amend the Higher Education Act of 1965. Testimony also addressed the effectiveness of the existing Crime Awareness and Campus Security Act of 1990, which was included as part of the Student Right to Know Campus Security Act, enacted to provide reliable information to parents and students about criminal activity on college campuses. Transcripts are provided of the testimony of witnesses concerning: the effectiveness of the existing law, how the law is being administered by the Department of Education, whether schools and the Department have been abiding by both the spirit and requirements of the law, what suggestions witnesses have for further changes to the law, and views of proposed Open Campus Police Logs Act. Transcripts are included of statements offered by five concerned private individuals, two school administrators, and David Longanecker, Assistant Secretary for Postsecondary Education. In addition to the oral testimony, prepared statements, letters, and supplementary materials are included in the report. (CH)

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HEARING ON CAMPUS CRIME AND H.R. 2416, TO AMEND THE HIGHER EDUCATION ACT OF 1965 TO REQUIRE OPEN CAMPUS SECURITY CRIME LOGS AT INSTITUTIONS OF HIGHER LEARNING

ED 399 903

HEARING

BEFORE THE

SUBCOMMITTEE ON
POSTSECONDARY EDUCATION, TRAINING AND
LIFE-LONG LEARNING

OF THE

COMMITTEE ON ECONOMIC AND
EDUCATIONAL OPPORTUNITIES
HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTH CONGRESS

SECOND SESSION

HEARING HELD IN WASHINGTON, DC, JUNE 6, 1996

Serial No. 104–56

Printed for the use of the Committee on Economic
and Educational Opportunities

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HE029539

U.S. GOVERNMENT PRINTING OFFICE
26-201 CC WASHINGTON : 1996

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Superintendent of Documents, Congressional Sales Office, Washington, DC 20402
ISBN 0-16-052945-X

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HEARING ON CAMPUS CRIME AND H.R. 2416, TO AMEND THE HIGHER EDUCATION ACT OF 1965 TO REQUIRE OPEN CAMPUS SECURITY CRIME LOGS AT INSTITUTIONS OF HIGHER LEARNING

THURSDAY, JUNE 6, 1996

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON POSTSECONDARY EDUCATION, TRAINING AND LIFE-LONG LEARNING, COMMITTEE ON ECONOMIC AND EDUCATIONAL OPPORTUNITIES, *Washington, DC.*

The subcommittee met, pursuant to call, at 10 a.m., Room 2175, Rayburn House Office Building, Hon. Howard "Buck" McKeon, Chairman, presiding.

Members present: Representatives McKeon, Goodling, Souder, Williams, Roemer, Becerra, Green, and Woolsey.

Also present: Representatives Clay and Castle.

Staff present: Vic Klatt, Education Coordinator; Lynn Selmser, Professional Staff Member; Sally Stroup, Professional Staff Member; Mary Ann Fitzgerald, Legislative Assistant; Kevin MacMillan, Staff Assistant; Dr. June Harris, Education Coordinator; and Marshall Grigsby, Minority Staff.

Chairman MCKEON. Good morning. We will call our hearing to order.

I would like to take a moment to welcome our witnesses and those who are here for today's hearing. We received many requests to testify today, and although we could not include everyone as witnesses, I do want to express my appreciation for your concern with respect to the issue of crime on our college campuses, and thank you for your attendance at this hearing.

Today we are going to hear about what is happening during the intervening years since the passing of the Crime Awareness and Campus Security Act of 1990. That law came to be as a result of the efforts of members of the Clery family, who are here today. They will be sharing their story and talk about their untiring efforts to bring the issue of crime on college campuses to the attention of parents and students alike so that tragedies such as theirs can be avoided by other families.

The subject of crime on college campuses is a major concern to all of us, particularly those with college age children. The Crime Awareness and Campus Security Act was enacted in order to provide reliable information to parents and students about criminal activity on college campuses.

This information is vital to the safety of our children and the parents' peace of mind when deciding on the school a son or daughter will attend.

Mr. Clay, Ranking Member, would you have an opening statement?

Mr. CLAY. Thank you, Mr. Chairman.

I am not a Member. I guess ex officio I am a Member of this subcommittee.

Chairman MCKEON. Ranking Member of the full committee.

Mr. CLAY. Yes, but I welcome this opportunity for our subcommittee to revisit the vitally important issue of safety on our Nation's college and university campuses.

Six years ago we enacted the Student Right to Know Campus Security Act in an effort to highlight the importance we placed on insuring that the young men and women who go to our colleges and universities would be able to learn in a safe and secure environment. That Act mandated that colleges and universities collect information with respect to their crime statistics and campus security policies on an annual basis and make that information available to all interested persons.

It was our belief then that making that information widely available to students and prospective students and anyone else who wished to have it would enable students and their parents to make more informed choices and would also provide incentives to institutions to develop a safer learning and living environment.

Colleges were not only required to report crime statistics, but they were also strongly encouraged to develop educational programs to help their students, faculty, and staff avoid becoming victims of crime on campus.

Today, Mr. Chairman, we will hear how that Crime Awareness and Campus Security Act is being implemented. We will hear from the Department of Education, campus security personnel, college administrators, media personnel, and, most importantly, parents and relatives of students who have been victims of crimes on these campuses.

At the conclusion of this hearing, we should have a better understanding of what more is needed to make absolutely sure that our college and university campuses are as safe as we can possibly make it. That was our commitment six years ago, Mr. Chairman, and it must remain our central objective today.

I am sorry that I will not be able to stay for the entire hearing, but I do assure all of the witnesses that I will read their testimony, and I would like to thank them for participating in this very important hearing today.

Thank you, Mr. Chairman, for yielding.

Chairman MCKEON. We have with us our full committee Chairman today, who has been a driving force in this issue, and I would like to turn the time to him now for his opening statement.

Mr. Chairman.

Chairman GOODLING. Thank you, Mr. Chairman.

I am pleased to be here to receive testimony on H.R. 2416, the Open Campus Police Logs Act, and on the implementation of current laws regarding the reporting of campus crimes.

In September of 1989, I introduced H.R. 3344, the Crime Awareness and Campus Security Act of 1989. The legislation was based on a Pennsylvania law supported by Howard and Connie Clery, who knew first hand the tragedy of campus crime.

Prior to my meeting with the Clerys and their attorney, Frank Perrington, my vision of a college campus was similar to that of many parents and former college students. It was an idyllic refuge from all of the horrors of society in general. I thought that the crimes on campus were committed by nonstudents who happened to come onto campuses.

However, after my meeting with the Clerys and others, this illusion quickly vanished, and I agreed to introduce legislation to assist students and faculty to be aware of crimes on campus so they could take steps to insure they would not also become victims.

And if school officials are going to fear their alumni groups and their benefactors and not act decisively and allow coaches or anybody else to protect the student criminal in the name of saving him or her, the problems can only get worse. As an administrator, I had to act decisively not because I did not care about the individual, but because I had to act so that the other 99 percent understood clearly what is acceptable and unacceptable behavior.

A hearing was held on March 14, 1990, and soon thereafter the bill was included as a part of the Student Right to Know and Campus Security Act. It was signed into law by President Bush on November 8, 1990, and the enactment of this law was, as all of us in Congress know, quick by any standard, but our interest in protecting students took priority over the usual time involved in debating legislation.

Today I am particularly interested in hearing how the department has been administering the law, whether or not schools and the department have been abiding by both the spirit and requirements of this law and not making any paperwork excuses, and whether or not we need to make additional amendments to current law to insure the safety of our Nation's students.

So I welcome the testimony today to guide us as we move forward in this area.

Chairman McKEON. Thank you, Mr. Chairman.

Our witnesses today have been asked to share their opinions on the effectiveness of the Crime Awareness and Campus Security Act, both good and bad. In addition, we have asked for their opinions and suggestions for further changes to existing law, as well as their views on H.R. 2416, the Open Campus Police Logs Act, introduced by Representative Duncan.

I will introduce our first panel now and wait to introduce the second panel when they take the table.

Our first panel of witnesses includes David Longanecker, Assistant Secretary for Postsecondary Education, and a familiar face before this subcommittee.

Our second witness, Doug Tuttle from the State of Delaware. I will defer to former Governor of the State, Mike Castle, to introduce.

Mr. CASTLE. Well, thank you very much, Mr. Chairman, and by the way, thank you for allowing me to sit in on your subcommittee. I am on the full committee, but not on this subcommittee, but I did want to come here today, and I would like to thank you, Mr. Chairman, for holding a hearing on this very important subject, first of all.

I, too, believe that students and parents and prospective students and staffs and communities need to have an accurate and timely information about the crimes committed on campus, and while Congress has taken steps in recent years to address this, I think current law could be clarified and could be strengthened.

Mr. Tuttle, who is here with us today, is President of the International Association of Campus Law Enforcement Administrators, which is a professional organization whose members manage campus police and security programs of more than 900 colleges and universities. He is no stranger to this committee. In fact, his expertise was called upon on March 14, 1990, when Congress first tried to address the issue of crime awareness and campus security.

Mr. Tuttle has been the Director of Public Safety at the University of Delaware for 11 years, and I just want to state here for the record that Mr. Tuttle comes from the finest university in the country. I hope you take that message back to Mr. David Rozelle, the President of the University of Delaware, to share the fact that I stated that.

Now, under his leadership, the University of Delaware is a leader in terms of its compliance with the Campus Crime and Security Awareness Act, but it is always way ahead of the game in terms of complying with the requirements of the Open Campus Security Logs Act, which has not even been passed by Congress yet or signed into law.

Specifically, the University of Delaware makes its police log available in electronic format so that it can be viewed on the Internet or World Wide Web. Thus, it is accessible to interested readers throughout the campus and the world, and it has enormous value as a public awareness tool.

So he is clearly in an excellent position to provide us with lots of useful information about how current law is working and about how current law could be strengthened, and I know he will have value insight and recommendations about the proposed Open Campus Police Logs Act, whose intent I strongly support.

And I apologize for my absence. We are marking up Glass-Steagall with 90 amendments. So I have a heck of a day ahead of me over there, but thank you, Mr. Tuttle, for being here.

Chairman GOODLING. I did not realize that Mr. Tuttle was at Penn State.

[Laughter.]

Chairman MCKEON. And I will not say anything about BYU, but it is nice that you are here, and it is nice to have you, Governor.

After Mr. Tuttle, we will hear from Patricia McClure, President of Trinity College here in Washington. What did I say, McClure? McGuire. Thank you, and I did not think I would mispronounce an Irish name.

Ms. MCGUIRE. You are doing very well.

Chairman MCKEON. They always mispronounce McKeon, but that is all right.

Our final witness on this panel will be Carolyn Carlson, testifying on behalf of the Society of Professional Journalists and the Campus Courts Task Force.

Now, you will notice right in front of you there we have those little light bulbs, and in the interest of time and fairness, we will follow those strictly, and I will ask you to hold your testimony within the five minutes. The green light goes on when it is time to start. The yellow light goes on when you have one minute left. When the red light goes on, your time is up, and we will move on to the next witness.

We have your full testimony for the record. So whatever you would like to say, we would love to hear from you at this time, and we will begin with Dr. Longanecker.

STATEMENT OF DAVID LONGANECKER, ASSISTANT SECRETARY FOR POSTSECONDARY EDUCATION

Dr. LONGANECKER. Mr. Chairman, Members of the committee, it is a pleasure to be here today.

Most of you have had the opportunity or we have had the opportunity to meet in the past, either via previous testimony or in other venues. As always, I am glad to be here.

We are gathered to talk about a different topic today than we traditionally have, campus crime rather than student financial assistance, but it is an equally serious and important discussion. As you know, the administration and Secretary Riley, in particular, has been very aggressive in working to assure that our educational institutions nationally and at every level provide a safe environment in which to learn. This is at the heart of one of our national goals. It is at the heart of the Safe Schools Act, which was one of our first legislative initiatives and which many of you helped pass.

More specifically, you asked that I address the implications and enforcement of section 484(f) of the Higher Education Act, the so-called Crime Awareness and Campus Security Act of 1990, and to give our perspective on the proposed open crime laws bill.

The Campus Security Act requires several actions by institutions participating in Federal student financial aid programs and charges the department with the responsibility for administering that Act.

With respect to the institutions, they are required to annually collect and distribute statistics concerning the occurrence on campus of certain criminal offenses; publish and distribute an annual security report that includes statement about campus law enforcement policies, campus security, education and prevention programs, alcohol and drug policies, sexual assault education and prevention programs, procedures for reporting sexual assaults and procedures explaining how reports of sexual assaults will be dealt with; and they must provide timely warning to the campus community about crimes that are considered to represent a continuing threat to that community.

With respect to the department, the Act requires us to identify and disseminate exemplary campus security practices, and obviously because it is a law and we are the agency that administers this law, to enforce the provisions of the Act.

It is also important to note though that the law does not authorize the department to require particular policies or procedures or practices with respect to campus security, nor does it require that institutions provide the department with the reports and processes that the institutions do develop.

Upon passage of the Act, shortly afterwards in 1991, the department began its enforcement activities by amending the program participation agreements with the more than 7,000 institutions that participate in Federal programs. This new program participation agreement required attestation by the institution that they were implementing the requirements of the Act.

We also provided two communications in 1991 that informed institutions about how to comply with the Act until the publication of final regulations. Final regulations were not published until 1994, in part because the law itself was undergoing revision, being amended three times since its passage in 1990.

The regulations were also amended in June of 1995. Now, we have just recently distributed a "Dear Colleague" letter explaining in more depth what the regulations require, how institutions must comply, and how we will administer the program.

In 1994, we published "Campus Security, a First Look at Promising Practices," as required by the Act, and our National Center for Education Statistics is currently the statutorily required report on campus statistics. We have designed this study to be valuable and complementary to those other things that are occurring.

Our longest term commitment, however, is to compliance with the Act, and the law is still essentially in the early stages of implementation, and because of this, our perception that the higher education community is generally committed to compliance with the spirit of the law, our enforcement strategy is to lead with a carrot and only follow with a stick as necessary. That is, I mean to say that our primary goal is to provide guidance to the higher education community so that they come into compliance, so that what we are doing is reducing campus crime and improving the reporting rather than trying to punish.

Generally, we are going to take a technical assistance approach to this. However, if we find out that institutions are not complying and that their noncompliance is intentional and flagrant, then we will take punitive action, but in general, we are going to try to work with the community to bring them in because it is our sense that that is the spirit in which they have pursued things.

I notice the red light has come on. I will just very quickly end my remarks by saying that we are very committed to working on this. If we receive complaints from students, we do follow up on those. We will do that.

We found considerable confusion with FERPA, and we do not know why that is the case because it should not. The FERPA law and this law are not in conflict. We are working to try to help the higher education community come into compliance with both of those. Our "Dear Colleague" letter, we think, does that.

We, just to finalize, are with you on this one, Mr. Chairman.

Chairman McKEON. Thank you.

[The prepared statement of Dr. Longanecker follows:]

STATEMENT OF DAVID A. LONGANECKER

Mr. Chairman and Members of the Committee,

I am pleased to appear before you today to share with you the efforts of the Department of Education to reduce crime on our college campuses. Our goals—that I am sure you share—are to assist schools in providing students nationwide a safe environment in which to learn and to keep parents well informed about campus security. Those goals were advanced by the Student Right To Know and Campus Security Act of 1990. I would like to provide you with information about the Department's efforts to implement and enforce that Act.

The Act was signed into law in November 1990 and amended several times in subsequent years. Title II is known as the "Crime Awareness and Campus Security Act of 1990." It requires several actions by institutions participating in the student financial aid programs under Title IV of the Higher Education Act of 1965 (HEA). Institutions are required to:

- Collect and distribute annually statistics concerning the occurrence on campus of certain criminal offenses reported to campus officials;
- Publish and distribute an annual security report that includes statements about campus law enforcement policies, campus security education and prevention programs, alcohol and drug policies, sexual assault education and prevention programs, procedures for reporting sexual assaults, and procedures explaining how reports of sexual assaults will be dealt with; and
- Provide a timely warning to the campus community about crimes that are considered to represent a continuing threat to other students and employees in a manner that aids in the prevention of similar crimes.

The Act requires the Department to identify and disseminate exemplary campus security practices while specifically excluding any authorization for the Department to require particular policies, procedures or practices with respect to campus crimes or campus security. The Act also requires the Secretary to make a one-time report to Congress on Campus Crime Statistics.

The Department first notified schools about the requirements of the law in March of 1991, four months after enactment. This letter informed schools about the requirement that they begin collecting statistics in August, 1991, allowing adequate time to put the collection mechanisms in place. A second, more detailed notice, was sent in August, 1991. This second notice informed schools how to comply with the law until the publication of the final regulations. The law was amended three times in subsequent years and final regulations were published in April, 1994, with technical amendments published in June, 1995. A new Dear Colleague Letter discussing the final regulations was completed last week and is being sent to schools. A copy of the notices are attached for your information.

There are a number of issues I would like to discuss with you today concerning our efforts to make colleges safer for students and to keep their parents well informed about campus security.

Relationship to the Family Educational Rights and Privacy Act

It has come to our attention that there is some confusion regarding disclosures required under the Campus Security Act and the prohibitions against the disclosure of individual education records contained in the Family Educational Rights and Privacy Act (FERPA). FERPA is not a barrier to complying with the disclosure requirements of the campus security regulations. It does not prevent the provision of statistical information; it does not interfere with the timely warning provision; it specifically allows for disclosure of the results of disciplinary hearings to victims of violent crimes; and, it does not relieve an institution from complying with the reporting requirements of the campus security regulations when the institution refers a matter to a disciplinary committee, rather than the campus security office.

Timely Warning Requirement

An institution must make "timely warning reports" to the campus community about certain criminal activities considered to represent a continuing threat to students and employees that are reported to officials with significant responsibility for student and campus activities, campus police, or local police. Individuals who are exempt from the timely warning provision, such as counselors, are still required to provide information for preparation of the annual statistical report.

Technical Assistance

Technical Assistance is available to help schools implement the Campus Security Act. Staff of the Department's Customer Support Branch in the Office of Postsecondary Education have been trained to provide technical assistance to institutions in administering the campus security regulations. An institution with specific questions, needing technical assistance, or that would like to receive in-service training concerning FERPA should contact the Department's Family Policy Compliance Office.

Complaint Procedure

Individuals wishing to file a complaint that an institution is not complying with these regulations are told to contact the Director of the Regional Office that serves the State in which the institution is located. When a complaint is filed against an institution alleging noncompliance with the campus security regulations, the Department will assess the complaint and determine the appropriate response. If an institution has difficulty administering a provision of these regulations, the Department will provide technical assistance so that violations can be corrected. If, however, an institution flagrantly or intentionally violates the campus security regulations, or fails to take corrective action, we will then take appropriate action against the institution by imposing sanctions. The type of sanction will depend upon the severity of the violations; possible sanctions include the assessment of fines, and in very severe violations, the limitation, suspension or termination of the institution's participation in the Title IV, HEA programs. In addition, findings made by the Office of Postsecondary Education will be referred to other offices or agencies when appropriate, including the Office for Civil Rights, the Inspector General, and the Justice Department.

We recently clarified our position on these and other issues relating to the Campus Security Act in the new Dear Colleague Letter that is on its way to schools. A copy of this letter is attached for your information.

There are three other provisions in the Campus Security Act that I want to report on today.

The first is the amendment of the Program Participation Agreement that each institution must have in order to participate in the Title IV student aid programs. The Act requires institutions to certify that they have established a campus security policy and that they have complied with the disclosure requirements. The revised Program Participation Agreements reflecting this requirement were executed between the Department and the participating institutions in the summer of 1991.

The second provision of the Act requires the Department to identify exemplary campus security policies and disseminate information regarding those policies, procedures and practices that have proven effective in the reduction of campus crime. This effort was undertaken by the Department's Office of Educational Research and Improvement and resulted in a publication titled "Campus Security: A First Look at Promising Practices" that was published in September, 1994. The Department disseminated the publication by mailing it to the presidents of all two- and four-year colleges, as well as all members of IACLEA, the International Association of Campus Law Enforcement Administrators. We sent out over 7,000 copies, and the publication was also available for purchase from the Government Printing Office. At the current time, we have only a few copies remaining and GPO has sold out all of their copies. We have included a photocopy of this publication for your information.

The third provision is a requirement that the Department report to the Congress on campus crime statistics. The report is underway at the current time and we expect to have a preliminary report ready by the end of this year. A final version ready for wide dissemination is expected in January of next year.

The report we are preparing is different from existing information about campus crime. For example, anecdotal information is available, but difficult to put in an overall context. Another is a survey undertaken by IACLEA summarizing the situation at 550 IACLEA schools, who all have professional law enforcement units. Finally, the third source of information is an annual compilation of campus crime reports that is published in the *Chronicle of Higher Education*. The most recent compilation, published in April, 1996, states "Campus-crime authorities warn that comparisons between institutions must be undertaken with caution. The crime reports do not take into account the nature of the institutions (rural or urban, residential or commuter, etc.). In addition, colleges with highly professional police departments may pursue crime more aggressively than do colleges that handle most incidents through a campus judicial system. High numbers may not mean that a campus is less safe than others."

Rather than duplicate the efforts of IACLEA and the Chronicle, the Department undertook a broader survey to provide national benchmarks for campus crime at different types of institutions. The survey is being administered by the Department's National Center for Education Statistics and includes questions that are designed to allow comparisons between types of institutions. In this way, the report will provide useful and unique information about the level of campus crime and efforts that have been undertaken to make college campuses safer for students. However, it is important to understand what the report will not do. The Act requires a one-time report, so there will not be annual surveys performed by the Department. The Act does not specify, and the survey will not provide, institution by institution comparisons. A copy of the survey instrument has been attached for your information.

You have also asked for our views on H.R. 2416, the Open Campus Police Logs bill. The Department has identified what we believe are problems in the bill as currently drafted.

First, the bill does not contain provisions to allow law enforcement to withhold information if it would threaten an ongoing investigation, if it would pose a threat to personal safety, or if it would lead to destruction of evidence. An example of language that would incorporate these exceptions can be found in a Virginia law requiring open campus crime logs that was passed in 1994. Also, the bill does not clarify its relationship with State laws requiring non-disclosure of the names of juveniles charged with crimes.

Second, the bill as drafted is inconsistent with the Campus Security Act. This bill requires disclosures for all reported crimes against persons and property, including larceny and vandalism. These crimes are not covered by the Campus Security Act. Also, the bill would not cover crimes against the public order, such as drug and weapons arrests, which are covered by the Campus Security Act. These inconsistencies would make it confusing for schools to implement this bill as currently drafted.

Third, it appears that the bill as drafted would not provide more protection to the campus community than is already available in the timely warning provision of the Campus Security Act. The timely warning provision requires campus law enforcement and other campus officials to inform the campus community about crimes that may present a threat to other students and employees and requires them to provide the reports in a manner that will aid in the prevention of similar crimes.

These are the problems we see with the bill as currently drafted, but we would be glad to work with the Committee to find ways that would better achieve our mutual objective—to provide safer college campuses for students and to keep parents better informed about campus security.

Mr. Chairman, I have explained the actions taken by the Department to enforce the letter and spirit of the Campus Security Act. We are in the beginning stages of implementing a new law. We are working with the postsecondary community to ensure that the Campus Security Act of 1990 is implemented fully by postsecondary institutions. We have focused on collaborative efforts to bring schools into compliance with the law. When we find schools who have intentionally or flagrantly violated the law, or are unwilling to come into compliance, we will impose sanctions against those schools.

We believe we are engaged in a productive effort to use the Act to make college campuses safer and more conducive to learning. The Secretary, with his colleagues in the higher education community, believes that students nationwide must have a safe environment in which to learn. Our hard work in implementing the Crime Awareness and Campus Security Act of 1990 is consistent with the President's vision, and the National Education Goals specified by the Nation's Governors.

I would be happy to answer your questions at this time.

ATTACHMENTS TO ACCOMPANY STATEMENT OF DAVID A. LONGANECKER

Dear Colleague Letter of March, 1991
Dear Colleague Letter of August, 1991
Dear Colleague Letter of May, 1996
"Campus Security: A First Look at Promising Practices"
Survey Instrument for Campus Crime Survey

UNITED STATES DEPARTMENT OF EDUCATION
WASHINGTON, D.C. 20202

March 1991

SUMMARY: This letter provides information concerning Pub.L. 101-542, The Student Right-to-Know and Campus Security Act. This letter is being mailed to the Chief Executive Officer/President, Registrar, and Financial Aid Administrator at each institution.

GEN-91-14

Dear Colleague:

The Student Right-to-Know and Campus Security Act (Public Law 101-542), signed into law November 8, 1990, contains several requirements that affect your institution's continued participation in the Title IV student financial assistance programs authorized by the Higher Education Act of 1965, as amended. We have attached a copy of the Conference Report to this letter.

Title I of this legislation is the Student Right-to-Know Act. Section 103 of the title requires an institution to produce and make readily available the completion or graduation rates of certificate or degree-seeking, full-time students entering that institution to current students and, to each prospective student upon request prior to that prospective student's enrolling or entering into any financial obligation. The institution must make this information available beginning on July 1, 1993 and annually thereafter. The period of time covered by each report is the one-year period ending on June 30 of the preceding year. Thus, for the first report, which is due July 1, 1993, the institution will report completion or graduation rates for the period July 1, 1991 through June 30, 1992. The statute defines the terms completion or graduation.

Section 104 of the Student Right-to-Know Act contains additional requirements for institutions that award athletically-related student aid. The term "athletically-related student aid" means any scholarship, grant, or other form of financial assistance, the terms of which require the recipient to participate in a program of intercollegiate athletics at an institution of higher education in order to be eligible to receive such assistance. Section 104 requires these institutions to report annually to the Secretary of Education, beginning July 1, 1993, the following information:

(A) the number of students at the institution of higher education who received athletically-related student aid broken down by race and sex in the following sports: basketball, football, baseball, cross country/track, and all other sports combined;

(B) the number of students at the institution of higher education, broken down by race and sex;

(C) the completion or graduation rates for students at the institution of higher education who received athletically-related student aid broken down by race and sex in the following sports: basketball, football, baseball, cross country/track, and all other sports combined;

(D) the completion or graduation rates for students at the institution of higher education, broken down by race and sex;

(E) the average completion or graduation rates for the 4 most recent completing or graduating classes of students at the institution of higher education who received athletically-related student aid broken down by race and sex in the following categories: basketball, football, baseball, cross country/track, and all other sports combined; and

(F) the average completion or graduation rates for the 4 most recent completing or graduating classes of students at the institution of higher education, broken down by race and sex.

The legislation requires the Secretary to grant a waiver of the requirements of Section 104 if an institution is a member of an athletic conference or association that has published, or agreed to publish, data substantially comparable to that required under Section 104 in the opinion of the Secretary. Section 104 of Title I of the Act is effective July 1, 1992, except that the first report is not due to the Secretary until July 1, 1993.

Title II of Public Law 101-542 is the Crime Awareness and Campus Security Act of 1990. This Act requires an institution to begin to collect certain information described below, commencing September 1, 1991. It also requires that the institution prepare, publish and distribute this information to all current students and employees, and to any applicant for enrollment or employment upon request, beginning September 1, 1992 and each year thereafter. This information is:

(A) A statement of current campus policies regarding procedures and facilities for students and others to report criminal actions or other emergencies occurring on campus and policies concerning the institution's response to such reports.

(B) A statement of current policies concerning security and access to campus facilities, including campus residences, and security considerations used in the maintenance of campus facilities.

(C) A statement of current policies concerning campus law enforcement, including--

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(i) the enforcement authority of security personnel, including their working relationship with State and local police agencies; and

(ii) policies which encourage accurate and prompt reporting of all crimes to the campus police and the appropriate police agencies.

(D) A description of the type and frequency of programs designed to inform students and employees about campus security procedures and practices and to encourage students and employees to be responsible for their own security and the security of others.

(E) A description of programs designed to inform students and employees about the prevention of crimes.

(F) Statistics concerning the occurrence on campus, during the most recent school year, and during the two preceding school years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies--

(i) murder;
(ii) rape;
(iii) robbery;
(iv) aggravated assault;
(v) burglary; and
(vi) motor vehicle theft.

(G) A statement of policy concerning the monitoring and recording through local police agencies of criminal activity at off-campus student organizations whose participants are students of the institution. The off-campus student organizations are those recognized by the institution, including student organizations with off-campus housing facilities.

(H) Statistics concerning the number of arrests for the following crimes occurring on campus:
(i) liquor law violations;
(ii) drug abuse violations; and
(iii) weapons possessions.

(I) A statement of policy regarding the possession, use, and sale of alcoholic beverages and enforcement of State underage drinking laws and a statement of policy regarding the possession, use, and sale of illegal drugs and enforcement of Federal and State drug laws and a description of any drug or alcohol abuse

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education programs as required under section 1213 of the Higher Education Act of 1965, as amended. (Section 1213 of the Higher Education Act of 1965, as amended, contains the drug free campuses requirements added by section 22 of the Drug Free Schools and Communities Amendments of 1989 (Public Law 101-226)).

The institution will be required to submit the information collected under paragraphs (F) and (H) above to the Secretary upon his request in order to allow the Secretary to fulfill the requirement of a report to Congress in 1995 on campus crime statistics. Further information will be included in the next Dear Colleague Letter on Pub.L. 101-542.

Title II of Pub.L. 101-542 also requires the Secretary to amend the Program Participation Agreement (PPA) for the Title IV Programs to contain a new certification that the institution has established a campus security policy and disclosed the information contained in paragraphs (A) through (I) above. The Department is currently revising the PPA and will send this revised version to institutions to sign and return early in the summer.

The Department will be publishing a Notice of Proposed Rulemaking and Final Regulations to implement Pub.L. 101-542. In the interim, the Department is issuing this Dear Colleague Letter (DCL) and a subsequent DCL. The second DCL will provide more interpretative language of the statute in an effort to provide guidance to institutions before the publication of regulations. Institutions will receive the second DCL in the near future.

If you have any questions concerning this letter, please contact the Regional Office that serves your State.

Sincerely,

Ernest C. Canellos
Acting Deputy Assistant Secretary
for Student Financial Assistance

Enclosure

U.S. GOVERNMENT PRINTING OFFICE 1991 0 292-518 QL 3

UNITED STATES DEPARTMENT OF EDUCATION
WASHINGTON DC 20202

AUGUST 1991

GEN-91-27

Summary: This letter provides information concerning Pub. L. 101-542, the Student Right-to-Know and Campus Security Act, as amended by Pub. L. 102-26, the Higher Education Technical Amendments of 1991. This letter is being mailed to the Chief Executive Officer/President, Registrar, and Financial Aid Administrator at each institution.

FEDERAL STUDENT FINANCIAL AID HANDBOOK REFERENCE: Please refer to Chapter 3 of the 1991-92 Handbook for further reference.

Dear Colleague:

In March, 1991 you received our "Dear Colleague Letter" (DCL) GEN-91-14 concerning Pub. L. 101-542, the Student Right-to-Know and Campus Security Act. This letter provides additional guidance for compliance with this Act's provisions and updates concerning legislative changes made since DCL GEN-91-14.

A notice of proposed rulemaking is expected to be published in the Fall, 1991 with final regulations published in the Spring, 1992. The Student Right-to-Know and Campus Security Act as amended by the Higher Education Technical Amendments of 1991 (Pub. L. 102-26) (the Act) requires institutions to commence collecting certain information in July and August, 1991. This letter is being provided to assist institutions in the implementation of the Act until the publication of the final regulations. The Secretary strongly recommends that institutions use the guidelines presented in this letter. Moreover, the Secretary assures institutions that if they follow these recommended policies until publication of final regulations, they will be in compliance with the Act.

Overview of Legislative Changes

Since the publication of DCL GEN-91-14, the President signed into law Pub. L. 102-26, the Higher Education Technical Amendments of 1991. We provide the following guidance concerning the Student Right-to-Know and Campus Security Act:

- The disclosure of a completion or graduation rate under Section 103 of the Act must now be made for certificate or degree-seeking, full-time undergraduate (previously graduate and undergraduate) students entering the institution. Pub. L. 102-26 also clarifies that beginning July 1, 1993, this disclosure is to be made annually for the one-year period ending on June 30 of the preceding year.

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- The Department has interpreted certain changes made by Pub. L. 102-26 to Section 103 of the Act to also apply to Section 104 of the Act. The annual disclosures to a potential student athlete, his or her parents, guidance counselor and coach (*et al*), are also the rates of undergraduates only (previously graduates and undergraduates); are reported as of June 30 of the preceding year; and are reported annually to the Secretary under Section 104 of the Act, with the first report to the Secretary and disclosures to potential student athletes *et al* due on July 1, 1993.

- If granted a waiver by the Secretary, an institution that is a member of an athletic association or athletic conference that has voluntarily published completion or graduation rate data or has agreed to publish data that, in the opinion of the Secretary, is substantially comparable to the information required to be disclosed under Section 103 of the Act, may use such data to satisfy the disclosure requirements of Section 103 of the Act.

- The date was changed from September 1 to August 1, for an institution to begin to collect information with respect to campus crime and security policies under Title II of the Act. Disclosures of crime statistics and campus security policies are still to be made beginning September 1, 1992 and each year thereafter on September 1. Information is to be collected for the period from August 1 through July 31, with the first year being August 1, 1991 through July 31, 1992.

- The description of "years" for which the crime statistics under Section 485(f)(1)(F) of the Higher Education Act of 1965, as amended are to be provided was changed from "school" year to "calendar" year. Thus, instead of "the most recent school year, and during the two preceding school years for which data are available," the law now states "the most recent calendar year, and during the two preceding calendar years for which data are available." Further information about these years is provided later in this letter.

Title I of the Act: Section 103 Requirements

Section 103 of Title I of the Act requires institutions to produce and make readily available to current students, and to each prospective student enrolling or entering into any financial obligation, the completion or graduation rate of certificate or degree-seeking, full-time undergraduate students entering that institution. The institution must make this information available beginning July 1, 1993 and annually thereafter on July 1. The period of time covered by each report is the one-year period ending on June 30 of the preceding year. Thus, for the first report, which is due July 1, 1993, the institution will report the completion or graduation rate for the period July 1, 1991 through June 30, 1992. As discussed later in this letter, the time when an institution is capable of disclosing the completion or graduation rate specified by the Act depends upon the length of the institution's program(s).

In order to calculate this rate, an institution must establish a "cohort" of students to follow. For the first disclosures on July 1, 1993, institutions should establish a cohort of certificate or degree-seeking, full-time undergraduate students entering that institution. For institutions that operate on a continuous enrollment basis, this cohort should include all full-time undergraduate students who enter the institution from July through September, 1991. For all other institutions, this cohort should be established using the Fall, 1991 enrollment, and any students enrolled between July 1, 1991 and the Fall, 1991 enrollment who continued into Fall enrollment.

The following students may be dropped from the cohort for calculating a completion or graduation rate:

1) students who leave school to serve in the Armed Services;

2) students who leave school to serve on official church missions; or

3) students who leave school to serve with a recognized foreign aid service of the Federal Government.

The Secretary recommends use of the following definitions (from existing regulations) to establish the cohort:

- A certificate or degree-seeking student is a regular student as defined in Section 668.2 of the Student Assistance General Provisions Regulations (34 CFR Part 668), who is a person enrolled or accepted for enrollment at an institution for the purpose of obtaining a degree, certificate, or other recognized educational credential offered by that institution.

- A full-time student is defined in Section 690.2 of the regulations governing the Pell Grant Program (34 CFR Part 690) and Sections 674.2, 675.2 and 676.2 of the regulations governing the campus-based programs (34 CFR Parts 674, 675, and 676), as an enrolled student who is carrying a full-time academic work load (other than by correspondence)--as determined by the institution--under a standard applicable to all students enrolled in a particular program. However, an institution's full-time standard must equal or exceed one of the following minimum requirements:

  (1) 12 semester hours or 12 quarter hours per academic term in an institution using a semester, trimester, or quarter system;

  (2) 24 semester hours or 36 quarter hours per academic year for an institution using credit hours but not using a semester, trimester, or quarter system, or the prorated equivalent for a program of less than one academic year;

  (3) 24 clock hours per week for an institution using clock hours;

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(4) In an institution using both credit and clock hours, any combination of credit and clock hours where the sum of the following fractions is equal to or greater than one:

$$\frac{\text{Number of credit hours per term}}{12} + \frac{\text{Number of clock hours per week}}{24}$$

(5) A series of courses or seminars which equals 12 semester hours or 12 quarter hours in a maximum of 18 weeks; or

(6) The work portion of a cooperative education program in which the amount of work performed is equivalent to the academic work-load of a full-time student.

- An undergraduate student is defined in Section 690.2 of the Pell Grant regulations (34 CFR Part 690) and Sections 674.2, 675.2 and 676.2 of the regulations governing the campus-based programs (34 CFR Parts 674, 675, and 676), as a student enrolled in an undergraduate course of study at an institution of higher education who--

  (1) Has not earned a baccalaureate or first professional degree; and

  (2) Is in an undergraduate course of study which usually does not exceed 4 academic years, or is enrolled in a 4 to 5 academic year program designed to lead to a first degree. A student enrolled in a program of any other length is considered an undergraduate student for only the first 4 academic years of that program.

- The term "entering the institution" means a student who is enrolled or accepted for enrollment for the first-time at any institution of higher education. The student may not enter with earned credits, except those earned while enrolled in high school through advanced placement in postsecondary education, or earned in that institution in the summer preceding the Fall enrollment.

- The term "entering into any financial obligation" means the student's entering into any financial obligation at the institution related to the student's program of study, e.g., the obligation to pay tuition and fees, the execution of an enrollment contract, or the execution of a Title IV or institutional loan.

- One hundred and fifty percent of normal time for completion or graduation is defined as follows:

For an institution whose programs are four years in length, 150% of normal time for completion or graduation is six years (72 months). For an institution whose programs are two years in length, 150% of normal time for completion or graduation is three years (36 months). For an institution whose programs are nine months in length, 150% of normal time for completion or graduation is 14 months (for 12-month programs, 18 months, etc.).

o An educational program is defined in Section 600.2 of the regulations governing institutional eligibility (34 CFR Part 600), and is a legally authorized postsecondary program of organized instruction or study which leads to an academic or professional degree, vocational certificate, or other recognized educational credential. However, the Secretary does not consider that an institution provides an educational program if the institution does not provide instruction itself (including a course of independent study) but merely gives credit for one or more of the following: instruction provided by other institutions or schools, examinations provided by agencies or organizations, or other accomplishments such as "life experience."

The statute also dir [illegible] t in calculating this rate, a student is counted as having completed or graduated (1) if the student completed or graduated within 150 percent of the normal time for completion of or graduation from the program, or (2) if within 150 percent of the normal time for completion or graduation, the student enrolled in any program at an eligible institution for which the prior program provided substantial preparation. A student who has completed or graduated is a student who (a) received a degree, certificate or other recognized educational credential from the institution, or (b) a student who transfers from that institution to a higher level program at another eligible institution for which the prior program provided substantial preparation.

With respect to changing programs (not transferring to a higher level program), if a full-time undergraduate student entered the institution under program A, but later transferred into program B at the same institution, for cohort purposes the student should be followed from entry into the cohort under program A to the receipt of a degree, certificate or other recognized educational credential under program B. The student would be considered to have completed or graduated since he or she received a degree or certificate, even though the educational credential was granted from a program different from that in which he or she originally enrolled; in other words, once in a cohort, the change of programs does not alter the student's presence in the cohort. Similarly, if the student receives a degree, certificate or other recognized educational credential from an institution and later receives another degree, certificate or other recognized educational credential from the same institution, for cohort purposes the student is counted as receiving a degree, certificate or educational credential the first time only. For example, if a student receives an associate degree and two years later receives a baccalaureate degree at the same institution, for cohort purposes the student would only be included in the completion or graduation rate for receipt of the associate degree.

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Persistence Rate and Timetable for Completion or Graduation Rate

As previously indicated, the Act requires an institution to provide a completion or graduation rate on July 1 of each year (for the first year, July 1, 1993). Because the statute requires calculations for that rate to cover the one-year period ending June 30, 1992, an institution must begin to collect data on July 1, 1991. On July 1, 1993, all institutions must provide the completion or graduation rate as specified by the Act. The Department recognizes that the publication of a completion or graduation rate on July 1, 1993 (for the period July 1, 1991 through June 30, 1992) will not be possible for institutions for whom 150% of normal time for completion or graduation has not lapsed. In lieu of publishing a completion or graduation rate, these institutions will be permitted to publish a persistence rate to permit a gradual implementation of the Act. The persistence rate is the percentage of the students in the cohort who re-enrolled each successive year until completion or graduation. In order to be counted in the persistence rate, a member of the cohort must re-enroll for the period for which the following cohort will be established. The period for which a cohort is established depends upon whether or not an institution operates on a continuous enrollment basis. Pag[illegible] of this letter discusses the appropriate time period. For each year thereafter, the institution should follow the 1991 cohort and be able to provide a persistence rate until such time that the institution is able to provide the rate as specified by the Act. The 1992 and successive cohorts would be tracked in a similar manner. The Secretary strongly recommends that institutions provide this persistence rate in order to comply with the Act.

An institution is considered by the Department as capable of providing the completion or graduation rate specified by the Act based upon the length of an institution's program(s). The Department considers institutions capable of providing the rate as specified by the Act as follows:

1. An institution whose programs are six months in length must provide the completion or graduation rate on July 1, 1993 for the cohort established for the period July 1, 1991 through June 30, 1992.
2. An institution whose programs are nine months or one year in length must provide the completion or graduation rate on July 1, 1994 for the cohort established for the period July 1, 1991 through June 30, 1992.
3. An institution whose programs are two years in length must provide the completion or graduation rate on July 1, 1995 for the cohort established for the period July 1, 1991 through June 30, 1992.
4. An institution whose programs are four years in length must provide the completion or graduation rate on July 1, 1998 for the cohort established for the period July 1, 1991 through June 30, 1992.
5. An institution whose programs are five years in length must provide the completion or graduation rate on July 1, 2000 for the cohort established for the period July 1, 1991 through June 30, 1992.

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6. An institution whose programs vary in length must provide the completion or graduation rate at the time that 150% of the normal time for completion or graduation has lapsed for the program of greatest length. For example, if an institution's programs are four and five years in length, the institution must provide the completion or graduation rate at the time that 150% of the normal time for completion or graduation has lapsed for the five year programs, i.e., July 1, 2000 for the cohort established for the period July 1, 1991 through June 30, 1992.

Title I of the Act: Section 104 Requirements

Section 104 of the Act requires institutions that award athletically-related student aid to provide certain disclosures to a potential student athlete, his or her parents, guidance counselor, and coach and to report certain information to the Secretary. A potential student athlete is an individual who contacted the institution for the purpose of requesting information concerning participation in the institution's athletic programs and/or financial assistance available on the basis of participation in these programs, or whom the institution contacted for recruitment to the institution's athletic programs. The requirements for calculating a completion or graduation rate under Section 103 of the Act previously iterated in this letter are also strongly recommended for the calculation of a completion or graduation rate under Section 104 of the Act, where applicable. The statute allows the same exclusions under Section 104 that apply to Section 103. These are exclusions for students who leave school to serve: in the Armed Services, on official church missions, or with a recognized foreign aid service of the Federal Government. If granted a waiver by the Secretary, institutions which are members of an athletic association or athletic conference that has voluntarily published completion or graduation rate data or has agreed to publish data that, in the opinion of the Secretary, is substantially comparable to the information required under Section 103, may use these completion or graduation rate data to meet the completion or graduation rate requirements of Section 103 and 104 for the first year of implementation of the Act.

An institution may use the persistence rate method provided in this letter to meet the requirement of the statute to provide an average completion or graduation rate for the four most recent completing or graduating classes of students who received athletically related student aid. This persistence rate must be an average rate (except for the first year) and broken down by race and sex in the following sports: basketball, football, baseball, cross country/track, and all other sports combined. This persistence rate may only be provided until the completion or graduation rate required by the Act and described in this letter can be provided.

Requirements of Title II of the Act

Title II of the Act is the Crime Awareness and Campus Security Act of 1990. This Act requires an institution to begin to collect certain information described below, commencing August 1, 1991. It also requires that the institution prepare, publish, and distribute this information to all current students and employees, and to any applicant for enrollment or employment, upon request, beginning September 1, 1992 and each year thereafter. This information is:

(A) A statement of current campus policies regarding procedures and facilities for students and others to report criminal actions or other emergencies occurring on campus and policies concerning the institution's response to such reports.

(B) A statement of current policies concerning security and access to campus facilities, including campus residences, and security considerations used in the maintenance of campus facilities.

(C) A statement of current policies concerning campus law enforcement, including--

(i) the enforcement authority of security personnel, including their working relationship with State and local police agencies; and

(ii) policies which encourage accurate and [illegible] reporting of all crimes to the campus police and the appropriate police agencies.

(D) A description of the type and frequency of programs designed to inform students and employees about campus security procedures and practices and to encourage students and employees to be responsible for their own security and the security of others.

(E) A description of programs designed to inform students and employees about the prevention of crimes.

(F) Statistics concerning the occurrence on campus, during the most recent calendar year, and during the two preceding calendar years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies--

(i) murder;
(ii) rape;
(iii) robbery;
(iv) aggravated assault;
(v) burglary; and
(vi) motor vehicle theft.

(G) A statement of policy concerning the monitoring and recording through local police agencies of criminal activity at off-campus student organizations whose participants are students of the institution. The off-campus student organizations are those recognized by the institution, including student organizations with off-campus housing facilities.

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(H) Statistics concerning the number of arrests for the following crimes occurring on campus:

- (i) liquor law violations;
- (ii) drug abuse violations; and
- (iii) weapons possessions.

(I) A statement of policy regarding the possession, use, and sale of alcoholic beverages and enforcement of State underage drinking laws and a statement of policy regarding the possession, use, and sale of illegal drugs and enforcement of Federal and State drug laws and a description of any drug or alcohol abuse education programs as required under section 1213 of the Higher Education Act of 1965, as amended. Section 1213 of this Higher Education Act of 1965, as amended, contains the drug free campuses requirements added by section 22 of the Drug Free Schools and Communities Amendments of 1989 (Public Law 101-226)).

As indicated above, Title II of the Act requires an institution to provide these disclosures to prospective and current students and employees. Examples of appropriate publications or mailings for the disclosure of the institution's crime security policies and statistics are the institution's catalog, a student handbook, a crime prevention manual or brochure, an information leaflet, etc.

The Act requires the collection and disclosure of crime statistics under section 485(f)(1)(F) of the HEA of 1965, as amended, (paragraph (F) above) for the period August 1 through July 31 for each of three years. Data to be disclosed on September 1, 1992 should be that collected for August 1, 1991 through July 31, 1992, and any two preceding years for which data are available. For the first year only (in other words, for the September 1, 1992 disclosures) the preceding year data may be for any time period, e.g. January through December, August through July, etc; these years, however, may not overlap one another. The Act further requires the collection and disclosure of statistics regarding arrests for certain crimes under section 485(f)(1)(H) of the HEA of 1965, as amended, (paragraph (H) above) for the period August 1, 1991 through July 31, 1992 for disclosure on September 1, 1992. Each year on September 1 when disclosure is required, three years of data will be given under Section 485(f)(1)(F) of the HEA of 1965, as amended, but only one year's data will be given under Section 485(f)(1)(H) of that Act.

Section 204 of the Act defines a campus as including:

(1) any building or property owned or controlled by the institution of higher education within the same reasonably contiguous geographic area and used by the institution in direct support of, or related to its educational purposes; or

(2) any building or property owned or controlled by student organizations recognized by the institution.

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For example, if an institution rents space (e.g., the fourth floor of a building) to hold classes, and is responsible for a section of the parking lot for its students' use, the fourth floor of the building and the section of the parking lot provided to the institution's students should be considered part of the institution's campus because they are within the institution's control, as provided by the statute under paragraph (1) above. If, for example, in an urban university setting a student is murdered while walking from one building to another, and the street on which the crime took place is publically owned, the institution does not own or control that street, and therefore, is not required to disclose the crime. For institutions that have a wholly-owned campus outside of the United States, the statute provides that it be treated as a separate campus for Title II purposes.

Section 204 of the Act requires that an institution provide its students and employees a statement of policy regarding the possession, use, and sale of alcoholic beverages and enforcement of State underage drinking laws and a statement of policy regarding the possession, use, and sale of illegal drugs and enforcement of Federal and State drug laws and a description of any drug or alcohol abuse education programs as required under section 1213 of the Higher Education Act of 1965, as amended. (Section 1213 of the HEA of 1965, as amended, contains the drug f[illegible]uses requirements added by section 2 of the Drug Free Schools and Communities Amendments of 1989 (Public Law 101-226)). Institutions which currently describe their policies regarding drug and alcohol use in the materials they distribute annually to comply with regulations governing Drug-Free Schools and Campuses (34 CFR Part 86) do not have to repeat the information for Section 204 purposes, but a reference must be made to the materials containing those policies.

Section 204 of the Act also requires an institution to make timely reports to the campus community on the following crimes "reported to campus security authorities or local police agencies" that are considered to be a threat to other students and employees: murder, rape, robbery, aggravated assault, burglary and motor vehicle theft. Institutions should recognize that the term "campus security authorities" is broader than the term "campus police force." Specifically, the Department understands the term "campus security authorities" to include (1) any individual or entity specified in an institution's statement of campus security policy as the individual or entity to whom students and others should report criminal offenses, as well as (2) administration officials having primary responsibility for student and campus activities, such as student counselors, deans and campus residence directors. The institution must provide these reports in a manner that is timely and will aid in the prevention of similar crimes. The Secretary recommends that the institution meet with the institution's security personnel, and local and State law enforcement authorities to discuss what is reasonable in terms of the timely reporting of these crimes.

Attached are the following publications made available to you by the Federal Bureau of Investigation for complying with the statutory requirement to use the definitions found in those publications for the crime statistics

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information the institution must disclose under paragraphs (F) and (H) on pages 8 and 9 of this letter: the Uniform Crime Reporting Handbook and the Hate Crime Data Collection Guidelines.

Title II of the Act requires the Secretary to amend the Program Participation Agreement (PPA) for the Title IV Programs to contain a new certification that the institution has established a campus security policy and disclosed certain statistical information concerning crimes on campus. Once an institution receives the PPA, the institution should promptly execute the agreement and return it to the Department.

Foreign institutions are exempt from compliance with these requirements as they are exempt from the requirements of the Student Assistance General Provisions Regulations.

If you have any other questions concerning the Act or this letter, please contact the Regional Office that serves your State.

Sincerely,

Michael J Farrell

Michael J. Farrell
Deputy Assistant Secretary
for Student Financial Assistance

UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF POSTSECONDARY EDUCATION

May 1996

GEN-96-11

Summary: This letter provides an overview of the regulatory provisions, and guidance to institutions on how to receive technical assistance in administering the campus security regulations, and the Department's enforcement policy regarding them.

Reference: Regulations published April 29, 1994 and June 30, 1995; Chapter 3 of the Federal Student Financial Aid Handbook.

Dear Colleague:

The purpose of this letter is to provide you with an overview of the campus security regulations and to bring you up-to-date on various aspects of an institution's administration of them. Originally, the campus security regulations were published in the Federal Register on April 29, 1994 and were effective July 1, 1994. Subsequently, amendments to these regulations were published on June 30, 1995 and became effective on July 31, 1995. These final regulations superseded previous "Dear Colleague Letters" addressing campus security requirements. This letter provides information regarding to whom institutions, parents, and students should address their questions about these regulations, to whom an individual should raise concern about an institution's compliance with the regulations, and how the U.S. Department of Education will respond to allegations of an institution's noncompliance with the campus security regulations.

Overview

By September 1 of each year, an institution must distribute: (1) to current students and employees: an annual security report containing certain statistics, policies, and a description of programs that promote campus safety and (2) to prospective students and employees: information about the availability of the report, a summary of the report, and an opportunity to request a copy of the report.

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Our mission is to ensure equal access to education and to promote educational excellence throughout the Nation.

Examples of what must be included in the report are:

I. Statistics on reports of on-campus murders, sex offenses, robberies, aggravated assaults, burglaries, and motor vehicle thefts; and arrests for weapons possession and liquor and drug abuse violations;

II. Policies regarding security, access to campus residences and other facilities, and campus law enforcement;

III. Procedures for reporting crimes and other emergencies;

IV. Information on campus sexual assault and rape awareness programs, procedures to follow when a sex offense occurs, disciplinary action procedures, counseling opportunities, and notification to students that the institution will make changes in a victim's academic and living situation if reasonably possible;

V. Policies on the use, possession and sale of alcoholic beverages and illegal drugs; and

VI. A description of programs informing the campus community about alcohol and drug abuse education, crime prevention and campus security policies.

With limited exceptions, the regulations do not prescribe policies and procedures for institutions to follow, but rather require that disclosures be made concerning those policies and procedures.

An institution must make timely warning reports to the campus community on certain crimes that represent a continuing threat to students and employees and that were reported to officials with significant responsibility for student and campus activities, campus police, or local police. Campus officials with "significant counseling responsibility," however, are not subject to the timely warning requirement. This exception permits the official to provide confidential assistance to a crime victim, without the competing obligation to provide an immediate report of criminal activity to the campus community. This exception to the timely warning requirement does not apply to the institution's statistical reporting obligations. All officials with significant responsibility for campus and student activities are required to provide information for preparation of the annual statistical report.

Family Education Rights and Privacy Act (FERPA)
It has been brought to the Secretary's attention that there is some confusion regarding the interplay of the disclosures required under the Campus Security Act and the prohibitions against the disclosure of information from education records contained in the Family Education Rights and Privacy Act (FERPA). As explained in the preamble to the campus security regulations, FERPA provides no barrier to compliance with the disclosures under the campus security regulations.

Reporting of statistics
The reporting of crime statistics by an institution of the occurrence of crimes on campus does not violate FERPA. FERPA protects the nonconsensual disclosure of personally identifiable information from education records; FERPA does not protect statistical information.

Timely warning provision
FERPA does not preclude an institution's compliance with the timely warning provision of the campus security regulations. FERPA recognizes that information can, in case of an emergency, be released without consent when needed to protect the health and safety of others (34 C.F.R. Sections 99.31(b)(6) & 99.36). In addition, if institutions utilize information from the records of a campus law enforcement unit to issue a timely warning, FERPA is not implicated as those records are not protected by FERPA (20 U.S.C. Section 1232g(a)(4)(B)(ii)).

Informing the accuser and the accused of the outcome of a disciplinary proceeding
The Student Right-to-Know and Campus Security Act amended FERPA to allow institutions to disclose to the victim of an alleged crime of violence the results of a disciplinary proceeding brought against a student accused of the crime, without the prior consent of the accused. This disclosure is limited to the alleged victim, who should be informed that the information may not be disclosed to the public generally (20 U.S.C. Section 1232g(b)(6)).

Reporting crimes referred to a disciplinary committee
An institution is not relieved of compliance with the reporting requirements of the campus security regulations when the institution refers a matter to a disciplinary committee, rather than to the institution's law enforcement unit or directly to the local authorities.

Technical Assistance

Staff of the Department's Customer Support Branch in the Office of Postsecondary Education are trained to provide technical assistance to institutions in administering campus security regulations. The telephone number and hours of operation for the Customer Support Branch are 1-800-433-7327, 9:00a.m.-5:00p.m. Eastern time, Monday through Friday. After-hours calls will be accepted by an automated voice response system. Callers leaving their name and telephone number will receive a return call the next business day. You may also fax an inquiry to (202)260-4199.

The Department's Family Compliance Office is responsible for administering FERPA. An institution with specific questions related to FERPA, needing technical assistance, or desiring to receive in-service training may contact the Family Policy Compliance Office, U.S. Department of Education, 600 Independence Avenue, SW, Washington, DC 20202-4605. Additionally, an institution may contact the office by electronic mail at FERPA@ED.GOV or by calling 202-260-3887.

Complaint Procedure

An individual desiring to file a complaint alleging that an institution is not complying with these regulations should contact the Director of the Regional Office that serves the State in which the institution is located. For this and other purposes, I have attached a list of names of Regional Directors, their addresses, and their telephone numbers.

When a complaint is filed against an institution alleging noncompliance with the campus security regulations, the Department will assess the complaint and determine the appropriate response. The Secretary recognizes that the campus security regulations represent new responsibilities for most institutions, and include issues that many will be addressing for the first time. If an institution has difficulties administering a provision of these regulations, the Department will provide

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technical assistance so that violations can be corrected. If, however, an institution flagrantly or intentionally violates the campus security regulations, or fails to take corrective action, the Secretary will, when appropriate, take action against the institution by imposing sanctions against that institution. The type of sanction will depend upon the severity of the violations; possible sanctions include the assessment of fines, and in very severe violations, the limitation, suspension or termination of the institution from participation in the Title IV, HEA Programs.

The Secretary, with his colleagues in the higher education community, believes that students nationwide must have a safe environment in which to learn, and is committed to ensuring that the Campus Security Act of 1990 is implemented fully by postsecondary institutions.

Sincerely,

David L. Longanecker

David A. Longanecker

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May 1996

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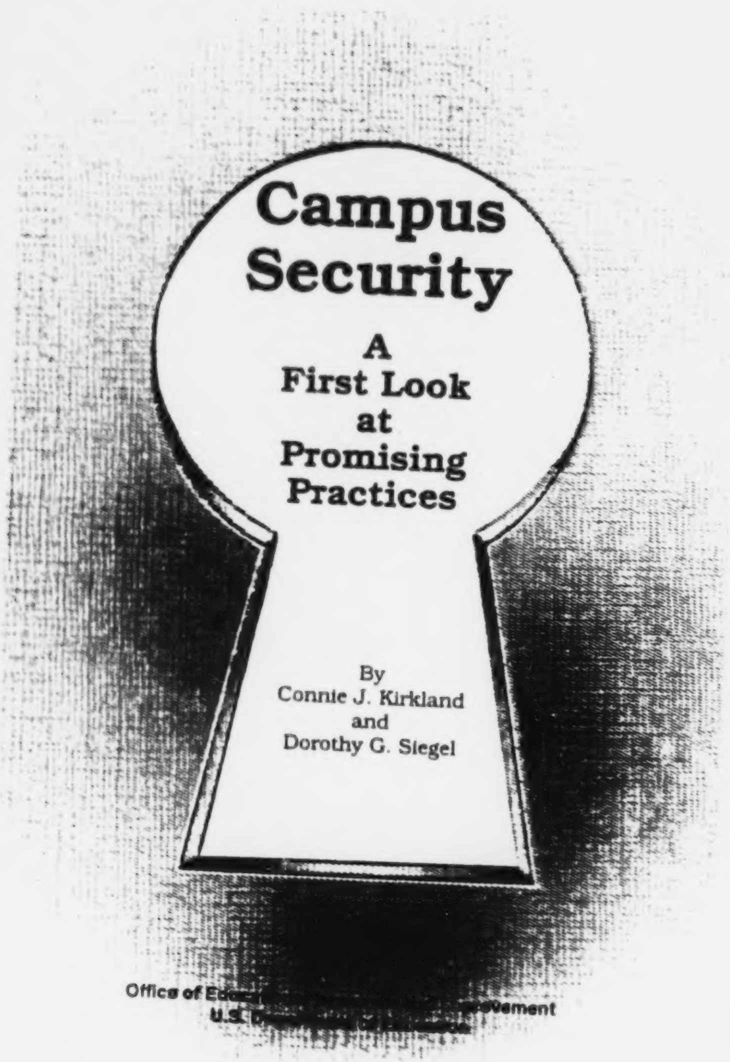

Campus Security

A First Look at Promising Practices

By
Connie J. Kirkland
and
Dorothy G. Siegel

Office of Ed[illegible]ovement
U.S. D[illegible]

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U.S. Department of Education
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Secretary

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September 1994

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This publication will be sold at the U.S. Government Printing Office. For further information, call their Order Desk at (202) 512–1800. The GPO Stock number for this book is 065–000–00681–2.

For sale by the U.S. Government Printing Office
Superintendent of Documents, Mail Stop: SSOP, Washington, DC 20402-9328
ISBN 0-16-045240-6

About the Authors

Connie J. Kirkland is the Sexual Assault Services Coordinator at George Mason University in Virginia. She has 18 years of professional experience in crime victim advocacy and criminal justice training. She coordinated the first national conference for college administrators on the Student Right-to-Know and Campus Security Act of 1990 and directed one of the first university victim-witness assistance programs. She obtained a M.A. in counseling psychology from Ohio State University and has completed postgraduate studies in conflict management.

Dorothy G. Siegel has been since 1975 the Vice President for Student Services at Towson State University in Maryland where she had taught in the psychology department. She has been the executive director of the Campus Violence Prevention Center since she founded it in 1985. She is also a coauthor of two books on campus violence and more recently wrote a study on campus response to violent tragedy.

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Note

The authors, Connie Kirkland and Dorothy Siegel, provide an outline of a comprehensive campus security program and a sample of current efforts they perceive to have proved effective in maintaining a secure campus. Colleges and universities can use the outline and examples to examine their own efforts to ensure a safe environment for learning. Not every example will be applicable to every institution. Large universities have different problems from small colleges. However, since security is a concern at all campuses, they can learn from one another.

Introduction

The Crime Awareness and Campus Security Act of 1990 reflects the nation's commitment to increase campus safety. To meet the expectations of the Act, the higher education community has given increased attention to the prevention and reduction of crime on campuses.

The information in this booklet represents a first attempt to assist colleges and universities as they develop policies, procedures, and programs to increase safety, respond appropriately to victims of crime, and fully comply with federal requirements established by the Act.

The material is presented in two sections. Part One presents 11 topics for helping define comprehensive, exemplary campus security programs. Part Two presents some examples of practices, shared by campus officials across the country, that may be helpful to other colleges and universities. Appendix A lists the schools cited in the report. Appendix B lists resources in the field of campus security.

Many of the items listed in Part One were chosen based on research[1] that indicates

- Alcohol and other drug abuse is directly related to perpetration and victimization rates of students;

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[1] Bausell, R. Barker; Bausell, Carole R.; and Siegel, Dorothy G. *The Links Among Alcohol, Drugs and Crime on American College Campuses: A National Followup Study*. Silver Spring, MD: Business Publishers, Inc., [1991]. This report, now out of print, is an analysis of the results of a survey of a random sample of 60,000 American college students during the spring of 1990. The study also provides a review of the literature on which it is based, relating crime in general to the use of drugs and alcohol.

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- Residence halls are the most frequent site of campus crime, and fraternity houses are scenes of student crime to a degree that is disproportionate to the number of students using them;

- The majority of campus crime is committed by students themselves;

- Students are more apt to be involved in a crime when classes are in session than during breaks and vacation;

- Heavy drinking fraternity members are three times more likely to become perpetrators than are their equally heavy drinking fellow students; and

- Male athletes who drink heavily are five times more likely to become perpetrators than are their equally heavy drinking fellow male students.

Part One: A Guide for Campus Security

This section presents 11 topic areas that can be used to define exemplary campus security programs. Although comprehensive, the list is not exhaustive.

I. Statement of behavioral expectations by chief officers of the institution

Exemplary campus security programs begin with campus leaders' public statements that members of the campus need to help create a civil, just environment on and off campus for the work of education to proceed.

II. A plan for timely dissemination of information

When the university informs the campus fully and in a timely fashion about campus security, including crimes that have occurred, individuals and the community can participate in making themselves and the environment safer. Specific topics on which information should be disseminated include

- Current state of safety on campus
- Crime statistics for the campus
- Information about off-campus crime
- Emergency notification system
- Security services the campus provides
- Police services available to the campus
- Policies and procedures for making the campus safe
- Continual reporting about crime to the campus
- Easy access for news media to current information
- University response to crime
- Places where crimes have occurred or are likely to occur
- Student and employee safety tips
- Prevention activities sponsored by the campus
- Prevention activities sponsored by off-campus agencies
- A list of persons approved for access to campus facilities
- A substantial and rehearsed crisis management plan

III. Effective campus security organization and personnel

Professionally trained law enforcement officers and security personnel who understand how to apply their skills in a higher education setting are critical to making security programs effective. They should receive continuing education, including training in managing relationships with the various populations on the campus. Campus law enforcement and security personnel need to understand the limits of their authority and the resources to use when those limits are reached. The institution needs to articulate policies about the following:

- Authority assigned to the law enforcement or security unit
- Referral to and cooperation with other law enforcement agencies, the criminal justice system, and the local district attorney
- Relationship of campus security and police with community police and jurisdiction agreements
- Campus law enforcement's response, if any, to illegal student behavior off campus
- Securing buildings
- Patrolling the campus
- Continuing education of students and employees for supporting security forces
- Victim services

IV. Services designed to foster safety through prevention

All members of the campus need continuing orientation to procedures, guidelines, and available services and encouragement to understand their responsibility to participate in creating a safe environment.

Specific preventive components include

- Creative patrol strategies (foot, bicycle, student volunteers)
- Escort services
- Posting and publishing safety reminders
- Procedures for identifying strangers on campus

- Screening for admitting applicants with records of violence
- Screening for residency of applicants with histories of violence
- Crowd management
- Programs to decrease conflict on campus, such as mediation and conflict management workshops
- New student and employee orientation on campus security
- Awareness programs and workshops

V. Security-sensitive physical plant design and maintenance

All planning for maintenance and new construction needs the involvement of those who understand the habits and behaviors of campus community members. Attention needs to be given to the following:

- Well-maintained lighting
- Security systems, both physical and electronic
- Trimmed shrubbery to enhance visibility
- Emergency phone systems
- Well-lit walkways and garages
- Clear and visible signs and directories
- Need for privacy

VI. A fair, just, clearly articulated judicial system

All members of the campus need to have a basic understanding of how the campus judicial system works. The information disseminated about it should include the following:

- Clearly stated hearing and appeal procedures
- A list of prohibited behaviors
- Procedures for filing complaints
- A list of consequences that the campus may impose
- Support and information services available for victims and alleged perpetrators
- A plan for a timely response to problem behavior

- A plan to remove perpetrators from contact with the victim and from the community, when necessary for the well-being of the campus
- A system for recording information about crime
- A clear statement regarding opportunities for legal counsel if the alleged perpetrator has been charged in the courts
- Advocacy and counsel for the victim that parallels the services for the alleged perpetrators
- Appropriate coordination with the criminal justice system

VII. Victims' assistance programs

As soon as possible after a crime occurs, victims need support to offset further damaging effects. Services include

- Help in reporting crime to the appropriate authorities
- Support and advocacy services
- Psychological and medical services, as needed
- Special help for victims of sexual assault and rape
- Support for secondary victims, such as friends and roommates of victims
- Access or referral to support for victim-witnesses in the criminal justice system and in-house judicial procedures
- Help for academic adjustments, as needed

VIII. Special considerations for residence halls

Most of the problems connected with residence halls are caused by students, either as violators or inadvertent compromisers of security. Specific residence issues include

- Secured and limited access
- Window and door lock-checking procedures
- Lock system requiring students to use keys or cards
- Routine police and security patrols of residence halls and surrounding areas and efforts to encourage understanding between residents and officers
- Continuing safety reminders for residents and education for all students

IX. Special attention to more volatile areas

Because of their close connection to the whole question of campus security and because they tend to be more volatile than others, the following areas require special attention:

Substance abuse

- Continuing information and education campaign
- Promotion of campus intolerance for illegal drug use and for alcohol abuse
- Prevention and intervention programs
- Consequences for violations

Bias-related violence

- Campuswide prevention programs
- Statements from leadership
- Cultural sensitivity training
- Classification and reporting of bias-related incidents

Sexual assault

- Information, education, and prevention programs
- 24-hour counseling and referral services
- Statements from leadership
- Policy on reporting to law enforcement officials
- Dissemination of information about the relationship between alcohol consumption and sexual assault

Greek organizations

- Policies relating to off-campus fraternities and sororities
- Prevention of hazing, alcohol abuse, and sexual assault
- Adult presence in Greek housing
- Prevention of underage drinking

Athletes

- Athletic staff commitment to a drug-free environment, including a alcohol-free environment
- Athletic departments' intolerance of violations of university rules of behavior and local laws

X. Good campus-community relations

Good relations between the campus and the local community are essential to maintaining order. Components of successful campus-community partnerships include

- Standards for university-owned or recognized housing in the community
- Active prevention education programs
- Community-school cooperative programs to decrease crime
- Cooperative efforts to reduce nuisance behavior
- Procedures to control underage drinking by students

XI. Campus crises prevention and response plan

Every organization needs a plan to deal with security crises. Some specific components are

- Crisis procedures
- Emergency coordinating team
- Communication plan
- Support services for primary and secondary victims
- Integration with community or regional emergency management plans

Part Two: Examples of Promising Practices

Effective campus security programs require a comprehensive approach. A series of unrelated activities, no matter how good, cannot provide the kind of security campuses need. The following are examples of practices defined as promising by some campus officials. The examples are categorized according to the comprehensive outline in Part One and each one begins with a bullet.

I. Statement of behavioral expectations by chief officers of the institution

Exemplary campus security programs begin with campus leaders' statements about the institutional expectation of civil behavior on and off campus. When university officials articulate behavior standards for the campus and actively call on the entire community to promulgate those standards, they make a safe campus the business of the campus community and of all who are seeking to affiliate with it.

- Westminster College (PA) made statements in the press about its intolerance for violent behavior and its policy of referral to the criminal justice system when such events take place. The clear message is that crime is crime whether it occurs on or off campus. The student perpetrator faces the same justice as his or her nonstudent counterpart.
- The president of Brown University (RI) said that racially assaultive words would not be tolerated and the president of the University of Vermont closed a fraternity house because the Greek group had violated the school's standards of behavior. By these public statements, the two presidents set and reinforced standards for their campuses.
- At the University of Michigan at Ann Arbor, complaints from the community are being addressed by a "Noisy Party Task Force," a committee comprising community members, Greek representatives, and city and university representatives.

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Violations of the community peace result in student fines that increase with repeat offenses.

II. A plan for timely dissemination of information

Every campus needs constant reminders that police and security officers are the facilitators of safety, not the creators of it. Campus members choose to participate in making the campus safe by supporting established safety procedures and by not tolerating others' compromising of safety standards. Prevention requires that the institution know and share information about the history of crime on campus and the potential for future crime.

- The College of Wooster's (OH) student guide provides information about the security office: it is a 24-hour service that includes patrolling and other prevention services. The guide further states that the security office maintains a working relationship with law enforcement personnel in the community. The college community needs to know that the response to criminal behavior is the same on campus as it is in the external community. Further, the community is entitled to know the results of judicial and criminal processes, even when names are withheld.

- Towson State University (MD) initiated its first dissemination of crime statistics for the campus by sending the yearly crime statistics to the home of each student. Subsequently, statistics have been distributed throughout the campus community. Statistics of all reported crime on campus are published by the campus police department semiannually. In addition, data sheets are distributed describing how certain crimes take place, how to prevent crime, and how to report it. Information about crime on campus is also made available to the student newspaper.

- At Towson State University (MD), if a dangerous person is believed to be at large on the campus, an immediate communication is made by electronic mail to each university department. The message contains information about what is known, how the campus is responding, and how each person can increase his or her own safety. Telephone follow-up calls are made to academic departments to ask that staff check the electronic mail and communicate the message to all faculty who, in turn, inform students. Personnel in residence halls post such information in a prominent place or on each resident's door.

- Towson State once held an open meeting during orientation to inform students and parents that a rape had occurred shortly after noon that day. The university presented what changes were being made to increase security and what safety procedures should be followed. Open meetings have been held following other crimes.

- Cheyney University of Pennsylvania persuaded a reluctant student newspaper to carry a campus crime report as a regular feature.

- The University of Florida has a "Crisis Communication Plan," which prepares the campus to respond to crises by providing the community and the media with "a timely, accurate, and appropriate response." The plan includes a list of directions on whom to inform and the way to communicate the information. There are also hints on how the person can cope with the situation most effectively. A responsible campus information system informs the community about increasing safety on campus but does not promise safety. Members of a campus community need continuing information about how to report crime and concurrent assurance that those who report will be given support.

- The University of Virginia Police Department uses an easy-to-read poster program, "Stall Stories," to disseminate safety tips on the inside door of rest room stalls.

- A Norfolk State University (VA) campus police information booklet offers the following advice:

  "DON'T TAKE YOUR SAFETY FOR GRANTED!

  1. There is safety in numbers. Travel with a friend.
  2. Always walk in well-lighted areas. Avoid wooded and isolated areas, especially at night.
  3. Use the University Shuttle Bus Service.
  4. Guard houses are strategically located and equipped with telephones for quick access to police headquarters.
  5. Always look alert and confident.
  6. Always be security conscious.
  7. Always look into your car before entering it."

- The University of Virginia offers the following printed materials in its safety management program:

  - Sexual Assault: What a UVA Student Should Know
  - How to Survive a Dorm Fire
  - A Researcher's Guide to Emergency Responses
  - Student Watch—Walking Escorts
  - Need Assistance—Use Blue Emergency Phones
  - UVA Police Crime Prevention Services
  - Operation ID

- Some universities, such as the University of Virginia and the University of Washington, have been collecting crime statistics according to Federal Bureau of Investigation guidelines and disclosing the data to the campus community for several years.

- The University of Washington's newspaper publishes crime prevention tips and campus crime statistics, a simple and no-cost approach to disclosure.

III. Effective campus security organization and personnel

Prevention is promoted when law enforcement staff are police academy trained and encouraged to practice their profession at the highest standard.

- The University of Virginia and the city of Charlottesville have a contract for joint jurisdiction agreements for shared response to disasters and riots. The university police department also uses diverse patrolling methods, including foot beats, bicycles, motor scooters, motorcycles, and patrol cars. It has also cooperated with the city to patrol fraternity areas during major events to prevent disturbances and to curb illegal use of alcohol. The department utilizes radar on campus and owns a breathalyzer machine and alco-sensors for DWI enforcement.

- Michigan State University's community policing stations assign officers to one of a number of ministations where student concentration is greatest. Each site is a total police office where all departmental services, including escort services, are offered. Students and police officers have become increasingly better acquainted as a result.

- The University of Washington Police Department operates the same as any local police department. Discretion in enforcement of the laws is a necessary component of this department of 58 sworn officers who serve the 50,000-member campus. The same standard of service is afforded everyone: students, faculty, staff, and visitors. The officers are professionally trained and are expected to follow the comprehensive campus manual of well-written police policies and procedures. Having such a manual results in increased efficiency and consistency on the part of all the officers.

- One entire chapter of the University of Washington's manual is devoted to the crime prevention unit of the police department. The crime prevention officer participates in the Seattle-area Crime Prevention Committee. The department

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has enhanced its service greatly by cooperating with this committee and other units within the police department and the university community.

- The Utah Valley State College hires State Police officers. Security on campus is their regular duty. Therefore, they are fully trained in law enforcement and have an understanding of how to work with other state and local authorities.

- The University of Florida Residence Department helps off-campus students improve the physical security of their homes in addition to sending them both information and discussion leaders to help increase their safety.

- Both Marquette University (WI) and the University of California at Berkeley actively work with neighboring communities to decrease crime. Marquette and the mayor of Milwaukee are sharing a grant that funds their working together to reduce crime in the city.

- The University of California at Berkeley and the town together address questions connected with crime, homelessness, emergency disaster planning, cultural events, and cooperation between police departments. Particular efforts focus on People's Park, an on-campus area used by the homeless, poor, students, faculty, staff, protesters, drug users, and criminals. Planned usage of the area has involved both the city and the campus.

- The city and the The University of California at Berkeley police each have areas to patrol and areas where they supplement each other's efforts in times of emergency. One example is the off-campus Greek house area. Although the city police have jurisdiction over that area, campus police supplement the patrols on Thursday, Friday, and Saturday nights. Together both assess the safety needs of the students and of the neighboring communities and plan for a more effective delivery of services.

- The University of California at Berkeley involves its police, as it does all members of its university community, in all phases of institutional planning and decision making with faculty, staff, and students.

- Representatives from the University of Florida serve on Gainesville's crime prevention and crime control committees.

- Security at Bates College (ME) is provided by seven unarmed security officers with the assistance of five unarmed watch officers and the backup of the Lewiston Police Department. The director of security instituted a policy that insures that every criminal complaint made to the security staff is referred directly to the local police. When schools have less than full police powers, the campus police or security force must have a special relationship with both the university administration and the local police agency to make a more effective system.

- When a student is arrested at Bates, the director of campus security notifies the dean of students as soon as possible. Whether or not the case results in criminal prosecution, a student conduct hearing is held for both misdemeanors and felonies, at which time a broad range of sanctions may be imposed. If a criminal complaint does not lead to an arrest, the incident report is referred to the dean of students, who then calls the student in for consultation and a possible judicial hearing. The college's sanctions are strong incentives for the students to participate in more positive behaviors. Crime statistics, collected by the Bates College Security Department, are compared monthly with those gathered by the Lewiston Police Department. The comparisons enhance accuracy and allow the school to contact all students who have been involved in criminal action.

- The Neighborhood Watch program has been adapted by Norfolk State University (VA); a similar program is called Campus Watch at Bates College (ME) and Dorm Watch by the University of Virginia. The common element is that campus members participate in making the school safe by accepting training to be on the lookout for possible criminal or suspicious behavior, which they report to their campus security and police. Organized student watches help reduce incidents by reporting criminal and or suspicious activity. A campus crime prevention officer usually serves as coordinator and trainer for such programs.

- The University of California at Los Angeles' campus police have developed strategies for detecting the presence of and reducing the effects of gang behavior on campus.
- The University of Arizona Police Department prepared a document to show how it will meet the expectations of the Crime Awareness and Campus Security Act. It describes how the department is staffed, how it reports criminal activity, how it responds to emergencies and criminal activity, and what it does to promote awareness and prevention. The document includes crime statistics for the last 2 years.

IV. Services designed to foster safety through prevention

Consensus exists that students and faculty have little interaction out of class. In larger cities they do not meet each other except during class and seldom in office hours. Currently at most medium- to large-sized schools, faculty and students eat, sleep, and play separately. The moderating effect on behavior that faculty and staff can have on students is not present. On the other hand, in communities where students interact with more mature adults and where the staff, students, and faculty frequent the same places of entertainment, students are encouraged to socialize with less abandon and with an eye toward not exhibiting unacceptable behavior. It may be that the lack of any sharing of activities with older adults outside of the classroom contributes to the poor behavior controls of some students in many schools.

The ideal climate is one where students, faculty, and staff care about their environment and share intolerance for excesses that lead to unacceptable behavior. They assert their rights to set the standards for communal interaction, thus refusing domination by those whose behavior is poorly controlled. The community urges members to insist on a civil relationship among the citizens. The community ideally does not tolerate such behaviors as drunkenness, harassment, and demeaning behavior that later correlate with violations of community standards.

Communal responsibility is the most effective prevention program. If all members of the campus are convinced that it is their community and they are responsible not only for abiding by the accepted behavior standards, but also for sharing responsibility in ensuring that the standards are upheld, then harmony and civil relations will mark the campus.

- The University of Washington Police Department created the "Cop Shop" program. The objective of this program is to provide highly visible and mobile crime prevention services to the general campus community and the student population in particular. Officers operating the Cop Shop distribute various crime prevention brochures. With the support of residence staff, the police place stickers bearing such messages as "Don't walk alone at night" on rest room doors in the dorms.
- Bates College (ME) Security Department sponsors and promotes the "Whistle Defense Program." Solid brass whistles are given free to students and staff. (A $75 fine is levied against anyone using the whistle improperly.)
- University police and security can take the lead in developing community crime prevention councils, as have been created at the University of Virginia in connection with Albemarle County, Virginia. Meeting monthly and working together on newsletters and other crime prevention literature builds stronger alliances. Police and security department personnel from campuses that belong to and participate in local and state professional organizations increase the opportunities for cooperative assistance and training.

- The Bates College (ME) Security Department manages and trains its escort service. Four students are paid to oversee the volunteer walking escorts. Each escort is equipped with a flashlight, radio, and identifying vest. The escorts work in pairs for the safety of both the students and the escorts and must call security headquarters both before and at the end of each campus escort. Van escort service is provided by many schools in a similar manner and is offered as an auxiliary to local bus services. Student escorts are used on many campuses to walk with or drive students and employees between campus buildings and their vehicles or residences.

- Cheyney University of Pennsylvania has asked parents to urge their students to participate in crime prevention. The school reports to parents of new students the common violations that occur.

- The University of Virginia Police Department, in cooperation with the dean of students and the alumni association, created a taxicab program to augment the university's student escort service. The university has a contract with a local taxi company to provide free rides to students who find themselves in need of transportation to safely return to their residences, especially after too much drinking. The bill will then be paid by the dean of students office, which the students reimburse at a later time.

- Students at Carleton College (MN) have formed a unique escort service. They respond in a timely manner to requests with a male-female two-person team who will walk the individual anywhere across campus. This service is under the auspices of the student government and not related to administrative services. The security office also provides a 24-hour escort service both on and near the campus and manages a safety van which transports students to more distant locations from 10 p.m. to 1 a.m.

- Norfolk State University (VA) has had no-incident events during what were formerly problem-ridden gatherings of

Greek organizations during yearly Greekfests (renamed Laborfest). The university has expanded and hosted activities to include step shows, concerts, carnivals, and other supervised events. The university has continued to host these yearly events without incident. The police chief and a faculty member have collaborated on the development of a police training program for crowd management. The program is designed to ensure a response appropriate to the uniqueness of the event.

- New York University has recently developed a one-credit course called "Internship on Criminal Justice" in which the enrolled students patrol the neighborhood as a part of the community's recently formed Washington Square Watch Team. A university vice president and the executive and commanding officers of the local precinct teach the class together. Each patrol is radio equipped to notify the precinct of behaviors requiring police investigation. The success of the course is evidenced not only in the increased patrols for the community, but also in the students' reports of their increased understanding of police and law enforcement services.

- Towson State University (MD) has arranged for approximately 70 staff members from offices as diverse as police, orientation, and residence and positions as diverse as secretaries and fiscal officers to participate in a 16-hour mediation training program. Two sororities have used mediation by these trained people to resolve their dispute with each other. It is hoped that as more students and staff are trained, they will increasingly resolve their own disputes.

- Lafayette College (PA) and California State University at Northridge use theater to educate for prevention. Cal State uses theatrical presentations about minority-majority relations on campus. A Rhodes College (TN) theater group presents two scenarios: one portrays a student who is raped by an acquaintance and another uses the same actors to portray how these two students in the same circumstances can avoid creating a situation in which sexual assault can occur. Currently there are several creative programs to help students avoid substance abuse, to prevent date rape, to sensitize communities to the needs of diverse populations on campus, and to inform students of the social challenges they will encounter on campus.

V. Security-sensitive physical plant design and maintenance

Good physical plant design contributes significantly to increased campus security. Both in new construction and in maintenance, the physical space can enhance the security of the students and employees of the institution. Effective lighting and good maintenance of it is one simple way to enhance security.

- Sodium vapor lights at Bates College (ME) increased illumination by 30 percent at a lower cost than the previous lighting system.

At many schools, the key-lock security system once used for both academic buildings and student housing has been replaced by a more efficient and much more secure card-lock system. The risk of having one's key used by an unauthorized person is eliminated when the card-lock system is used. A master controller can change the computer entry code immediately when a new card is needed, thus ensuring privacy and increasing security.

Windows in student housing are increasingly equipped with working locks and additional window bracket add-on locks that discourage burglars while allowing easy exit from within. The challenge is that even state-of-the-art security is constantly compromised by students who disconnect systems, allow strangers to enter, and ignore alarms.

Other locking practices to consider are

- Locking outer doors to student housing at night
- Having key access to housing and academic buildings
- Installing extra locks on student room doors

- Installing alarm systems on windows and doors
- Monitoring frequently for break-ins or inoperable conditions
- Giving master-key control of buildings to security personnel

- Night walks and lighting tours sponsored by security, police, students, and administrators have proven to be an effective method at the University of Virginia and Bates College (ME) for maintaining and making campuses physically more conducive to safety. During such walks, needs for new lighting are identified and defective fixtures and bulbs are discovered. It is a good time to determine which shrubs need cutting and what repairs are generally needed on campus. The walks include student representatives and staff from housing, security, and facilities management. Night walks have been attended by the president and vice presidents, directors of police, physical plant personnel, police officers, resident assistants, and students. These walks also increase crime awareness. The tour sponsors report to the physical plant director what has to be done and later report to the community what has been completed.

- The University of Virginia has an emergency telephone system that is directly linked to the police-security department. This system increases the speed of response to emergencies and may also serve as a deterrent. The system includes an automatic dial that is transmitted to the security dispatcher's emergency line when the receiver is removed from its normal position. All phone numbers and locations are displayed so that police and security officers can respond immediately, whether or not the caller communicates his or her need. This system is especially effective and reassuring when silence is necessary to increase one's safety. At night these telephones are illuminated for easy access. Phones have been placed in various sites on campus, including residence facilities, shower rooms, parking lots, pathways, and sidewalks.

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VI. A fair, just, clearly articulated judicial system

The ideal system is understood by everyone in the community, has clear rules that are accepted by the community, and imposes fair, consistent consequences for violating the rules. The consequences also serve to deter crime. The judicial system, with its consequences, should reflect the campus intolerance for violent behavior, drug and alcohol abuse, and illegal behavior, as well as its more traditional concern about academic dishonesty. Without suspending due process, the school needs to be ready to temporarily suspend alleged perpetrators until the judicial system can act. Suspensions can range from restricting the student to certain areas of the campus, like housing and social areas, to banning the student entirely from the campus.

- The College of Wooster's (OH) judicial code stresses the responsibility of campus members to report felonies to the criminal justice system. The campus reserves the right to exclude students from the campus. The code is clear and the standards for campus life are understood.

Tragedy and crime on campuses affect the psychological well-being of individuals, groups, and in many cases the total community. Many campuses provide support programs for those affected, which facilitate the healing of the community. Rethinking events and confronting anger are used to forge better awareness and new resolve to prevent such events.

- The University of Delaware uses its judicial system to support the community's actions with regard to crimes against public order, such as rowdy behavior. When students are found guilty of crimes in town, the university warns the student. A second guilty finding results in suspension.

VII. Victims' assistance programs

For victims, a crime is a crisis—an interruption in one's life when normal coping strategies are not appropriate. Those who serve victims generally agree that victims need support as soon as possible after the crime occurs to offset further disabling effects. Victims' ability to help the criminal justice system is greater when they are helped earlier.

Specialists in victim assistance say that students, particularly because they are away from family support, depend on college services to regain the control of their lives that may be interrupted by the crime.

Basic victim services include the following:

- Personal support and advocacy for the victim
- Explanation of legal, court, and judicial processes
- Accompaniment to police interviews and court appearances
- Liaison with community police and prosecutor offices
- Ongoing information about case status
- Academic and employer intervention
- Explanation of university judicial processes
- Assistance with crime compensation claims and impact statements
- Access to on- and off-campus agencies for legal, financial, medical, and psychological services

It is vital that victim assistance be organized and provided immediately when the need arises. Each of the programs listed below provides easy access to a staff person who is trained to be the central point of contact for victims' concerns. In all systems the victim maintains control of his or her life and makes decisions with support and information.

Victim assistance programs are found in the police departments of the University of Pennsylvania and Pennsylvania State University, while others are based in student affairs programs, for example at the University of North Carolina, and in campus health centers, for example at the University of Delaware.

- The University of Delaware's emergency response to victims of assault is immediate. Student volunteers are trained as responders, trainers, and workshop leaders; they form a growing network of students who are intolerant of victimizing behavior.

- At the University of Pennsylvania, the director of Victim Support and Security Services has an office in the campus police department and is the point person. When a victim of sexual assault or other violent acts is identified, the director or staff assistant is notified immediately. The procedures are as follows:

  - Talk first with the informant to determine the identity and whereabouts of the victim
  - Have the victim transported to Jefferson University Hospital, if appropriate
  - Ascertain if Philadelphia police have been notified
  - Determine if a rape crisis volunteer is in the hospital; notify her
  - Provide immediate support to the victim in person
  - Ensure that the victim is given proper medical attention
  - Comply with requests from the victim as much as possible
  - Transport and accompany the victim to police and court proceedings
  - Pass on appropriate information to designated members of the campus community with a need to know

- The University of Delaware is committed to providing prompt and compassionate support services to sexual assault victims through many of the university resources listed above.

Because sexual assault by an acquaintance of the victim is on the rise on college campuses nationwide, acquaintance rape is one of the leading safety concerns for adults of college age. Specialized programs have been developed on many campuses concerning sexual assault prevention and response to victims of these crimes.

Of special note at the University of Delaware is the group of volunteers known as "SOS" or Support Group for the Victims of Sexual Assault. This program has 24-hour services by trained students, faculty, and staff volunteers who provide free and confidential information and support for victims, survivors, their families, and friends. With services based in the university health center, someone answers the SOS telephone line at all times. A volunteer is contacted and returns the call within 15 minutes. The helper listens to the victim, offers information and options, and allows the victim to make her or his own decisions in all matters. Whatever services the victim agrees to use are accessed with the support of the volunteer helper. The victim is informed of all options and allowed time and various resources for decision making. Another important aspect of this program is its education outreach component to both men and women on campus. Volunteers conduct awareness programs concerning sexual assault and crisis intervention techniques to be used with victims.

- The University of Pennsylvania has developed a policy, outlined below, on acquaintance rape and sexual violence in order to set forth definitions; to reaffirm Penn's commitment to providing resources and processes for prevention, education, support, reporting, adjudication, and protection from retaliation; and to identify the range of sanctions. The University of Pennsylvania will

    - Provide resources to support victims and survivors
    - Utilize university fact-finding and discrepancy procedures with appropriate jurisdiction
    - Publish annual statistics on incidents and attempts of acquaintance rape
    - Provide comprehensive education for preventing sexual violence, including acquaintance rape
    - Inform, as appropriate, members of the Penn community when an incident has been reported

The procedures for implementing this policy take into account the need to investigate charges that may be filed and the right to confidentiality for all involved parties. When appropriate, after an incident occurs, outreach and support to faculty, students, and staff affected by the particular incident are part of Penn's response.

- Towson State University (MD) provides a counselor as soon as the victim informs the police. The counselor stays with the student during the immediate interactions with police, if acceptable to the victim, and further helps the victim and the family of the victim in coping with the crisis. The university makes an advocate available to accompany the victim to the various interviews both within the university's judicial system and within the criminal justice system. Students are also made aware that they may seek assistance from the counseling center. Frequently victims need help and support in deciding what their next step will be.

VIII. Special considerations for residence halls

Residence life is fraught with problems caused most frequently by students. Most universities suffer from students' compromising security systems. This problem requires continuous education. It is difficult to impose discipline with regard to such problems since they are created by some and often tolerated by the majority. Residential security needs require both student cooperation and supervision by security services.

Promising programs include components such as door checking and ongoing protection from strangers. Part of the continuous education of the student body is to remind community members of their responsibility to close doors behind them, to be wary of tailgaters who hold closing doors to illegitimately admit themselves, and to report strangers in their buildings. No residence hall can be secure without the help of the student residents. Keeping residence halls safe requires site-specific procedures.

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- The University of Florida residence hall program has a special security force, which is supervised by the campus police and works for the housing office to supervise the exteriors of all the residence halls. The force cooperates with both the housing staff and students to increase the safety of the residence area. Housing personnel also check to see that lighting and shrubbery are properly maintained for maximum safety. The campus provides options for alcohol-free dormitories, single-sex residence facilities, and residence halls with limited visiting privileges.

- Cheyney University presents a residence orientation program that uses improvisational theater to focus on student adjustment and avoidance of victimization. Spelman College (GA) students have accepted the standards for a residential program that has limited visiting privileges. The school reports that students visiting Spelman are made aware of the rules and accept them. Brethren College (PA) reports similar cooperation from its students.

- The University of Florida has devised intervention programs to defuse problems and to encourage members of the campus to find new solutions to their interpersonal disagreements.

The University of Florida advertises its safety programs. Students regularly receive information about how to be and stay safe. The university sends information to students' homes to inform them about safety procedures in advance of their return to campus. The front doors of the residence halls are locked at night and around the clock when there is greater danger. Visitors must first be admitted through the locked door (at night) and then request the person at the admitting desk to call their host. The host must come to the area to escort the guest into the residence hall. The possible flexibility of these rules is dependent on the outcomes of student meetings. The ongoing consciousness-raising activity of the staff puts safety messages in front of the students continually. The housing department also provides escort services for both off- and on-campus students.

IX. Special attention to more volatile areas

Substance Abuse

- Susquehanna University (PA) has a very aggressive alcohol program, which includes mandated intervention programs for offenders. It is among the many schools that introduce alcohol education at orientation. Research indicates that programs for increasing campus safety should include alcohol and drug prevention and intervention components.

Aggressive intervention and prevention programs need to be continually in front of the community. Although those who have abused drugs and alcohol should be helped to cope with their abuse, they must be held accountable for behavior while intoxicated. Consequences of such behavior should be understood in advance. The program should have a component that involves students in service programs at various levels as determined by their abuse habits.

- Towson State University requires any student who has violated the code of conduct and who was drinking or using other drugs at that time to participate in a substance abuse program. This applies even to students who are suspended. They must document their participation in such a program before being permitted to return.

Sexual Assault

- The University of Delaware's SOS program is an exemplary sexual assault education, prevention, and response program. Among the university's many activities is an educational week each fall devoted to the topic. This well-attended series raises awareness and helps students and others increase their knowledge of the topic. Schools find they need to continually teach what sexual assault is and that it is a crime with victims. Volunteers who have been trained to respond to sexual assault victims also speak at orientation and community meetings and they become recruiters for more responders. Victims who use the hotline number can speak with a helper within 10 minutes. As first responders, helpers meet with the victim, provide support and counsel, and offer to connect him or her to medical, counseling, police, and criminal justice personnel.

- Eastern Illinois University has incorporated a program about sexual assault into a health science course. Results of research studying the effects of the class experience show that women learn to understand what actions toward them constitute assault and consequently learn how to avoid becoming a victim.

Greek System

Because Greek life is too often associated with alcohol abuse and sexual assault, prevention work needs to be directed to fraternities and sororities. Although the national offices of these organizations have been taking stronger stands against hazing and alcohol abuse, the expectations that many students and frequently alumni bring to Greek life cause difficulties. Working with the fraternities and sororities requires constant attention to expectations, intolerance for violations of alcohol and hazing rules, and the institution's resolve to act decisively to hold individuals and groups to the expected behavior standard.

- Washington and Lee University (VA) requires fraternities to have resident advisors in their houses. A few other schools are moving in that direction. Others across the country are putting limitations on when pledging may begin.

Athletes

Programs where athletic directors and coaches make clear that the university behavior standards will be maintained have shown some successes.

X. Good campus-community relations

The spotlight is often on the competing interests of the campus and the larger community in which it is located. However, common interests far outnumber conflicting ones. In the best campus security programs, the two overlapping communities work together to help create the kind of environment where people can live without fear.

- The University of Delaware works with the town committee to cope with raucous student behavior in the community. A shared approach to the problem has resulted in an aggressive effort to make students more accountable to the university for their unacceptable off-campus behavior.
- The University of California at Berkeley has an agreement with the town police on jurisdictional limits: it makes clear where each police force's responsibility ends and defines the areas in which each will supplement the work of the other. During past crises these two police forces worked together so that the activity of the one responsible was augmented by the force of the other.
- Susquehanna University (PA) hires security officers who are deputized by the sheriff. College security personnel outnumber the police in town. The deputizing of the force has improved town-gown relationships.
- Rensselaer Polytechnic Institute (NY) requires each of its fraternity and sorority houses to designate a member as a liaison to the community to work on community concerns. Each house is responsible for keeping its neighbors informed about upcoming events. In a relationship statement the groups have with the school, the Greek groups agree that individual and group conduct will not unreasonably affect their neighbors.
- Stockton College (NJ) aggressively cooperates with the city to identify high-priority problems that can be addressed jointly by the city and the college.

XI. Campus crisis prevention and response plan

Schools need a plan of action when crises occur.

- The University of California at Berkeley has a campuswide plan that requires that appropriate members of the crisis response team meet at the established headquarters to direct the university response to a particular crisis. The Emergency Preparedness Team is a permanent committee. The police chief, information officer, and public relations officer are always on the team at the time of the emergency. Special identification cards are assigned to each team member so that, if necessary, they can cross police barriers.

- The University of California at Berkeley has included the city in its comprehensive emergency planning program. The plan, which includes preparations for various hazards, is presented on the first day of class in the fall semester by each faculty member in each classroom. The committee responsible for safety and emergency preparedness continually markets the program to the community. The plan includes information on how to disseminate information, what people in each building should do when the emergency occurs, which members of the community will direct the institutional response, where they will meet, and where and how basic needs for food, clothing, shelter, and medical service will be delivered, should that be required.

- The University of Florida has a team that goes into action immediately when an emergency occurs; it guides and coordinates the various responses needed from each department of the university.

Summary

Campuses everywhere are inaugurating programs to increase community responsibility and awareness about crime on campus. They have found it a continuing challenge to have concurrently a safe and a free campus where different communities of adults can interact freely. Unfortunately, many schools find that students do not heed much of the safety advice offered and continue to defeat safety efforts. Campus security can exist only when collaboration exists among the administration—beginning with the president—, the students, and campus security personnel.

Appendix A: Campus Security Contact Persons

Arizona State University
William R. Bess
Director
Department of Public Safety
Arizona State University
Box 870804
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(602) 965–6353

Bates College
Lawrence E. Johnson
Director of Security and Campus Safety
Bates College Security Department
245 College Street
Lewiston, MA 04240
(207) 786–6254

Brown University
Walter Holmes
Vice President for Administration
Box 1954
Brown University
164 Angell Street
Providence, RI 02912
(401) 863–9020

California State University at Northridge
Ronald Kopita
Vice President for Student Affairs
California State University Northridge
18111 Nordhoff Street
Northridge, CA 91330–8239
(818) 885–2391

Carleton College
Wayne Eisenhuth
Director of Security Services
Carleton College
One North College Street
Northfield, MN 55057
(507) 663-4427

Cheyney University of Pennsylvania
Terrence Inman
Director of Public Safety
Cheyney University of Pennsylvania
Humphries Hall Annex
Cheyney, PA 19319
(215) 399-2405

Eastern Illinois University
Louis V. Hencken
Vice President for Student Affairs
Eastern Illinois University
115 Old Main
Charleston, IL 61920
(217) 581-3221

Lafayette College
Frederick J. Quivey
Vice President for Business Affairs and Treasurer
Lafayette College
202 Markle Hall
Easton, PA 18042
(215) 250-5133

Marquette University
John J. McGinnis
Director, Public Safety
Marquette University
749 North 16th Street
Milwaukee, WI 53233
(414) 288-7320

Michigan State University
Bruce L. Benson
Police Chief and Director
Police and Public Safety
Michigan State University
87 Red Cedar Road
East Lansing, MI 48824-1219
(517) 355-2223

New York University
John O'Connor
Vice President for University Relations
New York University
Elmer Holmes Bobst Library
70 Washington Square South, #1228
New York, NY 10012
(212) 998-2388

Norfolk State University
Maxine B. Allen
Associate Vice President for Academic Affairs
Director, Institutional Research/Planning
Norfolk State University
2401 Corprew Avenue
Norfolk, VA 23504
(804) 683-8679

Pennsylvania State University
David E. Stormer
Assistant Vice President
Safety and Environmental Services
The Pennsylvania State University
5B Eisenhower Parking Deck
University Park, PA 16802-2116
(814) 865-1864

Rensselaer Polytechnic Institute
Bernard C. Drobnicki
Director, Public Safety
Rensselear Polytechnic Institute
15th Street, Visitor's Information Center
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(518) 276–8527

Rhodes College
Ralph L. Hatley
Director of Campus Safety
Rhodes College
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(901) 726–3880

Spelman College
Steve Bowser
Director, Public Safety
Spelman College
Campus Box 668
Atlanta, GA 30314
(404) 223–7660

Stockton College
James J. Kennedy
Chief of Police
Stockton Police Department
The Richard Stockton College of New Jersey
Pomona, NJ 08240
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Susquehanna University
Richard G. Woods
Director of Public Safety
Susquehanna University
University Avenue
Selinsgrove, PA 17870
(717) 372–4136

The College of Wooster
    Keith H. James
    Director of Security
    The College of Wooster
    Wooster, OH 44691
    (216) 263–2590

Towson State University
    Dorothy G. Siegel
    Vice President for Student Services
    Towson State University
    8000 York Road
    Towson, MD 21204
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University of Arizona
    Michael Thomas
    Chief of Police/Security
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    (602) 621–8273

University of California
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    Chief of Police
    University of California–Berkeley
    #1 Sproul Hall
    Berkeley, CA 94720
    (510) 642–1133

University of California at Los Angeles
    Terrence Baker
    Administrative Lieutenant
    UCLA Police Department
    601 Westwood Plaza
    Los Angeles, CA 90024
    (310) 206–7627

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Douglas Tuttle
Director of Public Safety
University of Delaware
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(302) 831-1204

University of Florida
Everett Stevens
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University of Florida
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University of North Carolina
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The University of North Carolina at Chapel Hill
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University of Pennsylvania
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University of Pennsylvania
200 Houston Hall
Philadelphia, PA 19104-6306
(215) 898-6081

University of Virginia
Michael Sheffield
Chief of Police
University of Virginia
2304 Ivy Road
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University of Washington
Michael Shanahan
Chief, University Police
University of Washington, HE-10
Seattle, WA 98105
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Utah Valley State College
Dick L. Chappell
Vice President
Administrative Services and Planning
Utah Valley State College
1200 South 800 West
Orem, UT 84058
(801) 222–8000 ext 8456

Washington and Lee University
Michael Young
Director of University Security
Washington and Lee University
Lexington, VA 24450
(703) 463–8427

Westminster College
Paul R. Darlington
Director of Campus Safety and Security
Westminster College
New Wilmington, PA 16172
(412) 946–7128

Appendix B: Resources

The International Association of Campus Law Enforcement Administrators (IACLEA) is the professional association dedicated to promoting professional ideals and standards in the administration of campus security and law enforcement. IACLEA's members represent colleges and universities in the United States and Canada. Its publications include the bimonthly *Campus Law Enforcement Journal* and periodic regional newsletters. IACLEA holds an annual conference each summer and regional meetings and workshops during the spring and fall. It also provides cost-effective, confidential consulting services related to all areas of campus security and law enforcement administration. Membership for 1994 is $175. For further information, contact IACLEA, 638 Prospect Avenue, Hartford, CT 06105–4298, telephone 203–233–4531.

Campus Crime is a monthly newsletter published by Business Publishers in Silver Spring, Maryland. The 1994 subscription rate is $240. The telephone number is 800–274–0122.

Campus Security Report is a monthly newsletter published by Rusting Publications, 402 Main Street, Port Washington, NY 11050. The 1994 subscription rate is $199. The telephone number is 516–883–1440.

The U.S. Department of Education has a national information system called the Educational Resources Information Center (ERIC). The system is designed to provide users with ready access to an extensive body of education-related literature. It is the world's largest source of education information with over 750,000 abstracts of documents and journal articles on education research and practice. ERIC can be accessed through almost all college and university libraries. Under "campus security," ERIC lists and summarizes 42 items, with 16 of them listed between January 1991 and September 1993.

U. S. DEPARTMENT OF EDUCATION
OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT
NATIONAL CENTER FOR EDUCATION STATISTICS

April 1996

Dear PEQIS Survey Respondent:

On behalf of the National Center for Education Statistics (NCES), I am requesting your participation in the national survey on *Campus Crime and Security at Postsecondary Education Institutions*. Westat is conducting the survey for NCES using the Postsecondary Education Quick Information System (PEQIS). The questionnaire is designed to be completed in 30 minutes or less.

The purpose of the survey is to provide information for a mandated report to Congress about campus crime, in compliance with the Crime Awareness and Campus Security Act of 1990. Data collected in this survey will be used only for statistical purposes. The data will be published by NCES in aggregate form only, and will not identify individual participants or their institutions. The survey is designed to be completed by the person at your institution who is most knowledgeable about your institution's security procedures and crime statistics.

The survey has been approved by the Office of Management and Budget (OMB). Your participation, while voluntary, is vital to the development of national estimates. A copy of the survey report will be sent to your institution after this study is completed.

We ask that you complete and return the enclosed questionnaire within 3 weeks, and that you keep a copy of the completed questionnaire for your files. If you have any questions about this survey, please call Bernie Greene, the NCES Project Officer for PEQIS, at 202-219-1366, or call Laurie Lewis, the Westat survey manager, at 800-937-8281, ext. 8284 (toll-free), or 301-251-8284.

Thank you very much for your assistance.

Sincerely,

Jeanne E. Griffith
Acting Commissioner

WASHINGTON, D.C. 20208-________

U.S. DEPARTMENT OF EDUCATION
NATIONAL CENTER FOR EDUCATION STATISTICS
WASHINGTON, D.C. 20208-5651

FORM APPROVED
O.M.B. No.: 1850-0731
EXPIRATION DATE: 03/99

CAMPUS CRIME AND SECURITY AT POSTSECONDARY EDUCATION INSTITUTIONS

POSTSECONDARY EDUCATION QUICK INFORMATION SYSTEM

This survey is authorized by law (P.L. 103-382). While participation in this survey is voluntary, your cooperation is critical to make the results of this survey comprehensive, accurate, and timely.

DEFINITIONS FOR THIS SURVEY:

Campus - is defined for this survey as (1) any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of, or in a manner related to, the institution's educational purposes; (2) any building or property owned or controlled by a student organization recognized by the institution; or (3) any building or property controlled by the institution, but owned by a third party.

Sworn officer - has full arrest power as a peace officer or under other enabling legislation. Include any students who are sworn.

Security officer/guard - has non-sworn duties typically assigned to security personnel or guards. May perform some traditional police duties.

Contract security - firms or individuals, not employees of colleges or universities, who provide security under contract.

Other security - police or security personnel not described elsewhere.

Data collected in this survey will be used only for statistical purposes, will be published by the National Center for Education Statistics in aggregate form only, and will not identify individual participants or their institutions.

IF ABOVE INSTITUTION INFORMATION IS INCORRECT, PLEASE UPDATE DIRECTLY ON LABEL.

Name of Person Completing This Form: ____________________ Telephone Number: ____________

Title/Position: ____

THANK YOU. PLEASE KEEP A COPY OF THIS SURVEY FOR YOUR RECORDS.

RETURN COMPLETED FORM TO:	IF YOU HAVE ANY QUESTIONS, CALL:
WESTAT, INC. 1650 Research Boulevard Rockville, Maryland 20850 ATTN: Lewis, 923822	Laurie Lewis at Westat 800-937-8281, Ext. 8284 or 301-251-8284 Fax: 800-254-0984 E-mail: lewisl1@westat.com

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PEQIS Form No. 7, 04/98

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1. Does your institution award any federal Title IV student financial aid? *These programs include Federal Pell Grants; Federal Stafford, PLUS, SLS, and Perkins Loans; Federal Direct Student Loans (FDSL); Federal Work-Study; Federal Supplemental Educational Opportunity Grants; State Student Incentive Grants; and others.*

Yes .... 1 *(Continue with question 2.)*
No .... 2 *(Stop. Complete respondent section on front and return questionnaire.)*

For questions 2 through 4, enter "DK" if your institution does not have information for a particular year or criminal offense. Enter zero if your institution collects information about a particular offense, but there were no occurrences or arrests for that offense.

2. For each of the following criminal offenses, enter the number of occurrences on campus that were reported to local police agencies or to any official of the institution who has significant responsibility for student and campus activities. Report for calendar years 1992, 1993, and 1994.
If your institution only keeps combined statistics for forcible and nonforcible sex offenses, check here ☐ *and report the combined statistics on line b.*

Criminal offense	Total occurrences		
	1992	1993	1994
a. Murder			
b. Forcible sex offenses (including forcible rape)			
c. Nonforcible sex offenses			
d. Robbery			
e. Aggravated assault			
f. Burglary			
g. Motor vehicle theft			

3. For the criminal offenses of murder, aggravated assault, all forcible sex offenses, and forcible rape, enter the number of reported occurrences that **manifest evidence of prejudice** based on race, religion, sexual orientation, or ethnicity ("hate crimes"), as prescribed by the Hate Crimes Statistics Act (28 U.S.C. 534). Report for calendar years 1992, 1993, and 1994. *Forcible rape is a subset of all forcible sex offenses.*

Criminal offense	Occurrences of hate crimes		
	1992	1993	1994
a. Murder			
b. Aggravated assault			
c. All forcible sex offenses, including forcible rape (if available)			
d. Forcible rape			

4. Enter the number of **arrests** in calendar years 1992, 1993, and 1994 for each of the following crimes occuring on campus. *Do not include drunkenness and driving under the influence in these statistics.*

Crime	Number of arrests		
	1992	1993	1994
a. Liquor-law violations			
b. Drug abuse violations			
c. Weapons possessions			

5. Which **one** of the following sets of definitions is used by your institution for compiling the crime statistics in questions 2 and 4? *(Circle one number.)*

FBI Uniform Crime Reporting (UCR)/National Incident-Based Reporting System (NIBRS) definitions 1
State crime definitions 2
Other *(specify)* __________ 3

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6. Which of the following sources report possible criminal offenses at your institution to the office responsible for campus security? If your campus has a particular source but the source does not report possible offenses, answer "No." If your campus does not have a particular source (e.g., does not have residence halls), answer "Not applicable." *(Circle one number on each line.)*

	Yes	No	Not applicable
a. Campus security or law enforcement department	1	2	3
b. Dean of Students office	1	2	3
c. Residence hall directors	1	2	3
d. Office with responsibility for fraternities and sororities	1	2	3
e. Campus health center	1	2	3
f. Campus rape crisis center	1	2	3
g. Local law enforcement agencies (e.g., city police department)	1	2	3
h. Other *(specify)* ______________________	1	2	3

7a. Does your institution compile annual security report information for students and staff?

Yes .... 1 No .... 2 *(Skip to question 8.)*

7b. In which of the following formats does your institution compile the annual security report information? *(Circle one number on each line.)*

	Yes	No
a. As a stand-alone publication (brochure, newsletter, etc.) about campus security	1	2
b. As part of the text of a general student or employee handbook, catalog, course schedule, etc.	1	2
c. As an article in the campus newspaper	1	2
d. In electronic format (e.g., on the campus computer network)	1	2
e. Other *(specify)* ______________________	1	2

7c. In which of the following ways does your institution disseminate the annual security report information? *(Circle one number on each line.)*

	Yes	No
a. Direct mailing to each current student and/or employee	1	2
b. Mailing upon request to current students and/or employees	1	2
c. Mailing upon request to prospective students and/or employees	1	2
d. Mailing to every household in the institution's enrollment area	1	2
e. Placement in campus mail boxes	1	2
f. Posting on the campus computer network or Web page	1	2
g. Distribution in student residence halls	1	2
h. Available in various offices and/or building lobbies around the institution	1	2
i. Available at student orientation, registration, and/or other student activities	1	2
j. Publication in the campus newspaper	1	2
k. Posting on campus bulletin boards	1	2
l. Other *(specify)* ______________________	1	2

8. Do students and staff at your institution have access to rape crisis counseling through any of the following sources? *(Circle one number on each line.)*

	Yes	No
a. Rape crisis center or hotline run by the institution	1	2
b. Rape crisis center or hotline run by the community	1	2
c. Campus health center	1	2
d. Campus mental health or counseling center	1	2
e. Other *(specify)* ______________________	1	2

9. In the last 5 years, has your institution increased lighting levels in the following campus areas? *(Circle one number on each line.)*

	Yes	No
a. Within campus buildings	1	2
b. In parking lots and parking structures	1	2
c. On campus grounds and walkways	1	2

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10. Does your institution offer any of the following services or programs concerning campus safety? If yes, please indicate whether they have been instituted or improved within the last 5 years.

	Offer?		Instituted or improved in last 5 years?	
	Yes	No	Yes	No
a. Foot or bicycle patrols by security personnel	1	2	1	2
b. Night-time escort services	1	2	1	2
c. Night-time shuttle bus or van services	1	2	1	2
d. Limited access to residence halls	1	2	1	2
e. Limited access during nights and weekends to academic buildings	1	2	1	2
f. Emergency phone systems	1	2	1	2
g. Program of publishing or posting safety reminders	1	2	1	2
h. Safety/crime prevention presentations to campus groups	1	2	1	2
i. Victim's assistance programs	1	2	1	2

11a. Which of the following types of **public safety employees** (as defined on the front of the questionnaire) provide campus security at your institution? *(Circle one number on each line.)*

	Yes	No
a. Sworn officers (i.e., with full arrest power) who are employees of the institution	1	2
b. Sworn officers (i.e., with full arrest power) who are employees of a state or local law enforcement agency	1	2
c. Security officer/guard (exclude contract guards)	1	2
d. Contract security (include contract guards)	1	2
e. Other *(specify)* ____________________	1	2

11b. Which **one** of the above types of public safety employees has primary responsibility for providing campus security at your institution? *(Circle one letter.)*

a b c d e

12a. Does your institution have any campus housing? *(Include dormitories, on-campus fraternities and sororities, and institution-provided apartments.)*

Yes .... 1 No .... 2 *(Skip to question 13a.)*

12b. What percent of all students at your institution (i.e., full time and part time, undergraduate and graduate) live in campus housing, including dormitories, on-campus fraternities and sororities, and institution-provided apartments?

Percent living in campus housing: __________%

13a. Does your institution have any off-campus fraternities and sororities?

Yes .... 1 No .... 2 *(Skip to question 14a.)*

13b. Do the crime statistics in questions 2 through 4 include criminal offenses that occurred at these off-campus fraternities and sororities?

Yes .... 1 No 2

13c. What percent of all students at your institution live in off-campus fraternities and sororities?

Percent living in off-campus fraternities and sororities: __________%

14a. Do the crime statistics in questions 2 through 4 include information for more than one campus?

Yes .... 1 No .... 2 *(Skip to question 15.)*

14b. Please list all campuses covered by the crime statistics in questions 2 through 4: ______________________________

____

15. What office at your institution provided most of the information to complete this survey? *(Circle one number.)*

Campus security or law enforcement department 1
Other office *(specify)* ______________________________ 2

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Chairman McKEON. Mr. Tuttle.

STATEMENT OF DOUGLAS TUTTLE, DIRECTOR OF PUBLIC SAFETY, UNIVERSITY OF DELAWARE, AND PRESIDENT, INTERNATIONAL ASSOCIATION OF CAMPUS LAW ENFORCEMENT ADMINISTRATORS

Mr. TUTTLE. Good morning, Mr. Chairman, Members of the committee. Thank you for this opportunity.

The public recording of crime statistics has been the norm on some campuses for more than 20 years. The current practices have largely been shaped by the requirements of section 485(f) of the Higher Education Act. This section requires the publication and distribution of statistics, specifically those for murder, forcible or nonforcible sex offenses, robbery, aggravated assault, burglary, and motor vehicle theft for the most recent three-year period. The provision of timely notice regarding crimes within those categories which may pose a threat to others on the campus is also required, as is the publication of statistics for the most recent year regarding arrests for liquor law violations, drug abuse, and weapons possession.

The numbers are to include crimes which have occurred on the campus, at off-campus locations under control by an institution, or at off-campus locations under control by recognized student organizations, provided that those crimes have been reported to the local police agencies, campus security authorities, or any other officials of the institution with significant responsibility for student and campus activities, and that those crimes have been determined to have occurred with the same degree of certainty required by the FBI's uniform crime reporting system.

Some campus crime reports have been criticized as incomplete. Not all institutions have been successful in gaining the cooperation of local police agencies. There also have been instances in which campus officials outside the police and security unit, either due to ignorance or by design, have failed to forward data regarding crimes which have been brought to their attention to the offices which compile annual reports.

Nonetheless, the published data regarding campus crime now available far surpasses anything one might have imagined prior to the passage of section 485(f), and studies of those statistics have consistently shown that the rates of violent crime and serious property crime on campuses are significantly lower than the crime rates of the communities in which the institutions are located.

Missing from the current picture of campus crime is consistent reporting of the crime of larceny, a category, along with arson, for which the FBI gathers national statistics. Some schools provide this data for State statute and others, such as the University of Delaware, do so voluntarily, intending to comply with the spirit, as well as the letter, of the Federal law, but many schools adhere to the minimum requirements of section 485(f).

Among schools which do publish numbers of larcenies, those offenses typically account for 75 to 90 percent of all reported campus crimes. Leaving reported larcenies out understates the magnitude of the property crime situation on campus and may diminish institutional support for crime prevention technology because of a reduced perception of need.

Overlooking the most commonly reported category of crime can also skew one's perception of the frequency of more serious offenses. Consider the University of Delaware, where a total of seven robberies were reported last year. If the category of larceny were ignored, one out of every 17 offenses reported in 1995 was a robbery. When larcenies are included, the frequency of robberies on campus drops to one out of every 117 offenses.

To improve the usefulness of the data being reported nationally, I recommend the crime of larceny be added to this section.

Another factor which tends to obscure the true nature of institutions' responses to criminal activity is the stipulation that statistics for liquor violations, drug abuse violations, and weapons possession be limited to arrests for those categories. Those numbers only tell a portion of the story about the campus response to the challenges of these violations, as arrest is not always a viable option.

Many campus security personnel lack formal arrest authority. Even where campus officers are duly sworn, arrests for what are often viewed as minor offenses, especially in major cities, face an unlikely prospect of adjudication through the courts.

With respect to H.R. 2416, this type of legislation currently exists in several States, and where it does not, many institutions have established voluntary programs to comply with the intent of this law. I would urge that if it becomes law, regulations clearly allow for an electronic format to require the keeping of a paper and pencil log would limit the creativity of institutions.

I would further urge that language similar to that found in the Virginia statute be included, which provides the opportunity to withhold release of information when publishing it might jeopardize an ongoing investigation, the safety of an individual, the destruction of evidence, and related possible consequences.

The Commonwealth of Virginia has wisely chosen to mitigate these potential difficulties, and I recommend this as a model at the Federal level.

I would also urge that any regulation specify that the location of a reported crime not include the room number, particularly in a residence situation. This would defeat the privacy protection afforded to victims, witnesses, and suspects.

In summary, as I see my time is up, I believe that with the incorporation of the recommended language from the Virginia statute, the expressed flexibility to comply with the provisions of the bill through the application of technology and careful guidance regarding identification of crime locations, there would be little negative impact associated with the passage of H.R. 2416.

The implementation date of September 1996 is unrealistic, however, given the need for detailed regulatory languages.

Thank you for this opportunity.

[The prepared statement of Mr. Tuttle follows:]

STATEMENT OF DOUGLAS F. TUTTLE

Summary of Testimony

The public reporting of campus crime statistics has been the norm at some institutions for more than 20 years, but current practices have largely been shaped by the requirements of Section 485(f) of the Higher Education Act. Several states have also enacted legislation which is more or less congruent with this law. Section 485(f) requires the publication and distribution annually to current students and employees, and to prospective students and employees upon demand, of tabulations for the most recent 3-year period of certain categories of on-campus crime statistics; and timely notice to the campus community regarding reported offenses within those categories considered to represent a threat to the safety of students and employees. Also required are the most recent year's statistics regarding on-campus arrests for liquor law violations, drug abuse violations, and weapons possessions. The statistics should include all crimes within the designated categories which have occurred on campus, at off-campus locations owned or controlled by the institution, or at off-campus locations owned or controlled by recognized student organizations, provided that those crimes have been reported to local police agencies, campus security authorities, or any other officials of the institution with significant responsibility for student and campus activities, and that those crimes have been determined to have occurred with the same degree of certainty as would be required by the FBI's Uniform Crime Reporting System.

Some campus annual reports have been criticized as incomplete. Not every institution has gained the cooperation of local police agencies. Some campus officials outside of the institution's police or security units have failed to forward data regarding crimes to the offices responsible for the annual reports.

Nonetheless, the published data regarding reported on-campus crimes which is currently available far surpasses anything which predated the Crime Awareness and Campus Security Act of 1990. Studies have consistently shown that the rates of violent crimes and serious property crimes on college and university campuses are significantly lower than the crime rates of the communities where the institutions are located. Missing from the current picture of campus crime is the reported incidence of larceny, although some schools provide this data pursuant to state statute and others do so voluntarily. Among institutions which publish numbers of larcenies, that category typically accounts for 75 percent to 90 percent of all reported crimes. Larceny should be added to the list of enumerated offense categories.

Arrest statistics regarding liquor law violations, drug abuse violations, and weapons possessions are more indicative of the level of proactive law enforcement activity within a campus community than of overall crime, and these numbers only tell a portion of the story about postsecondary institutions' responses to the challenges of alcohol and drug violations. In many instances, arrest is not a viable option. Arrest authority for the security personnel of private institutions is still not the norm. Even where officers are sworn, the logistics of making arrests for what are often viewed as "minor" offenses can be daunting. Many campus agencies have turned to internal institutional disciplinary procedures as a means of addressing alcohol violations. Section 485(f) should be revised to call for the numbers of all persons charged with such violations—either internally through campus disciplinary systems or externally through the courts.

The U.S. Department of Education must be perceived as serious about enforcing the provisions of the law. IACLEA has concerns that without a monitoring program, the effectiveness of the law rests upon good intentions. As institutions compete for students and the media establishes "rankings" based on crime statistics, the temptation to understate a school's crime rate will grow if there is little perceived likelihood of being held accountable. The Secretary should require all schools to submit their statistics.

Regarding H.R. 2416, similar legislation exists in several states, and where it does not, many institutions have established voluntary programs. At the University of Delaware, a Daily Update of Reported Crimes and Incidents is posted electronically to the Public Safety computer bulletin board where it is accessible via the Internet and the World Wide Web. Such technology could render an open campus police log a true public awareness tool. Any implementation regulations should allow for an electronic format and not require a "paper and pencil" log.

H.R. 2416 should include the following language from the Virginia campus log statute: ... *however, where the release of such information is likely to jeopardize an ongoing criminal investigation or the safety of an individual, cause a suspect to flee or evade detection, or result in the destruction of evidence, such information may be withheld until the above referenced damage is no longer likely to occur from the release of such information."*

The categories of crimes required to be logged by H.R. 2416 are not consistent with the crime statistics to be compiled under Section 485(f). The requirement to log all reports of "crimes against persons or property" is more inclusive of certain offenses, while leaving out arrests for alcohol, drug abuse, and weapons possession.

Section 485(f) requires the provision of timely notice to the campus community regarding offenses which are considered to represent a threat to the safety of students and employees, and would seem to cover the "public awareness" issue related to serious offenses. Absent an electronic medium to make a daily crime log conveniently available to everyone, the only regular readers of the log would probably be the student press. It is vital that the incidents recorded in a campus daily log be described ion such a way as to protect the privacy of persons who have not been arrested. Keeping a log of reports should not have on the reporting of sensitive crimes, but any of inappropriate disclosure of information could set victim support efforts back significantly. In terms of cost, the burden of compliance would fall most heavily upon institutions which have allocated the fewest resources to their security programs. In many small campus security organizations, clerical support is virtually non-existent, and any time devoted to office duties must come at the expense of "patrol" time.

H.R. 2416 will not solve the perceived problem of under-reported campus crime by providing a basis for double-checking the accuracy of the statistics included in the annual campus security report. The major reason for any "reality gap" between what may be occurring on a campus and the crime statistics which are compiled annually is that some crimes simply aren't being reported to the campus law enforcement units at all. Logging the names of persons who have been arrested also would not shed any light on the identities of individuals who have been dealt with solely through internal campus disciplinary procedures.

In summary, with the incorporation of the recommended language from the Virginia campus log statute, the expressed flexibility to comply with the provisions of the Bill through the application of technology, and careful guidance regarding the identification of crime locations, there would be little negative impact associated with the passage of H.R. 2416. The proposed implementation date of September 1, 1996, is somewhat unrealistic, however, given the probable need for the development of rather detailed regulatory language.

Good morning, my name is Douglas Tuttle. As the Director of Public Safety for the University of Delaware, a position which I have held for eleven years, I administer the campus law enforcement program of the premiere postsecondary institution in our state. I also currently serve as the President of the International Association of Campus Law Enforcement Administrators (IACLEA), a professional organization whose members manage campus police and security programs at more than 900 colleges and universities. It is a privilege to have this opportunity to address the Subcommittee regarding current crime reporting practices on college and university campuses, the implementation and enforcement of Section 485(f) of the Higher Education Act, and the provisions of H.R. 2416, the "Open Campus Police Logs Act of 1995."

The public reporting of campus crime statistics has been the norm at some institutions for more than 20 years, but the current practices at most colleges and universities have largely been shaped by the requirements of Section 485(f) of the Higher Education Act. The provisions of that section, comprised of the "Crime Awareness and Campus Security Act of 1990" and its subsequent amendments, have been communicated to all schools which participate in Title IV programs by the U.S. Department of Education through Final Regulations which were published on April 29, 1994 (and corrected on June 30, 1995). Several states have also enacted legislation which is more or less congruent with Section 485(f), and schools located within those states must carefully structure their crime reporting practices to meet both sets of standards.

Two aspects of campus crime reporting are specifically addressed by Section 485(f): the publication and distribution annually to current students and employees, and to prospective students and employees upon demand, of tabulations for the most recent 3-year period of certain categories of on-campus criminal offense statistics; and the provision of some sort of timely notice to the campus community regarding reported offenses within those categories which are considered to represent a threat to the safety of students and employees. The categories of crimes which are specifically covered by Section 485(f) are: murder, forcible or nonforcible sex offenses, robbery, aggravated assault, burglary, and motor vehicle theft. Also subject to inclusion in the annual report are tabulations for the most recent year of statistics regarding on-campus arrests for liquor law violations, drug abuse violations, and weapons possessions.

The statistical tabulations required by the Final Regulations pertaining to Section 485(f) are intended to include all crimes within the designated categories which have occurred on the campus of the institution, at off-campus locations which are either owned or controlled by the institution, or at off-campus locations which are owned or controlled by recognized student organizations, provided that those crimes have been reported to local police agencies, campus security authorities, or any other officials of the institution with significant responsibility for student and campus activities, and that those crimes have been determined to have occurred with the same degree of certainty as would be required by the FBI's Uniform Crime Reporting System. I wish there were a more succinct way of describing the crime statistic reporting criteria which postsecondary institutions must meet, but there is not.

As one might imagine, some of the annual campus crime reports which have been published in compliance with Section 485(f) have been criticized as incomplete. Not every institution has been successful in gaining the cooperation of the local police agencies to whom crimes occurring at the stipulated locations might be reported. There also have been instances in which campus officials outside of the institution's police or security units have failed to forward data regarding crimes which have been brought to their attention to the offices responsible for compiling the annual statistical reports—either through ignorance or by design. Nonetheless, the published data regarding reported on-campus crimes which is currently available for review by current and prospective students and employees, as well as by the media, far surpasses anything which one might have imagined prior to the enactment of the Crime Awareness and Campus Security Act of 1990. Studies of the available statistics have consistently shown that the rates of violent crimes and serious property crimes on college and university campuses are significantly lower than the crime rates of the communities within which the institutions are located, and well they should be.

One thing which is missing from the current picture of campus crime in this nation is the reported incidence of simple larceny. Although the publication of larceny statistics is not required by Section 485(f), a number of schools provide this data pursuant to state statute and many others do so voluntarily in an effort to comply with the spirit, as well as the letter, of the federal law (larceny, along with arson, is a category of crime on which the FBI gathers national statistics). Among those institutions which do publish numbers of larcenies, offenses within that category typically account for 75 percent to 90 percent of all reported campus crimes. If asked to recommend one change to Section 485(f) which would improve the usefulness of the data being reported, I would have to say that the crime of larceny should be added to the list of enumerated offense categories. Leaving reported larcenies out of the tabulation understates the magnitude of the property crime situation on campuses and may serve to diminish institutional support for applications of crime prevention technology because of the reduced perception of need. Overlooking the most commonly reported category of campus crime can also skew one's perception of the frequency of more serious offenses. Consider the University of Delaware's campus crime statistics for calendar year 1995 as an example. A total of seven robberies were reported last year. If the category of larceny were not included, one out of every 17 offenses reported was a robbery. When the category of larceny is included (as it is voluntarily at the U of D), the frequency of robberies on the campus drops to one crime out of every 117 offenses reported during 1995.

An aspect of Section 485(f) which tends to obscure, rather than reveal, the true nature of postsecondary institutions' responses to criminal activity on campuses is the stipulation that statistics regarding liquor law violations, drug abuse violations, and weapons possessions be limited to the number of arrests for those categories. During testimony in March of 1990 concerning H.R. 3344 (the Bill which became the Crime Awareness and Campus Security Act), I noted that such arrest statistics are more indicative of the level of proactive law enforcement activity within a campus community than of overall crime. Having since reviewed the published campus arrest statistics for several years, I must now say that these numbers only tell a portion of the story about postsecondary institutions' responses to the challenges of alcohol and drug violations. In many instances, arrest is simply not a viable option. Although there is a gradual trend toward the granting of formal arrest authority to the security personnel employed by private institutions, such is still not the norm in many jurisdictions. Even where campus security officers are duly sworn, the logistics of making arrests for what (especially in major cities) are often viewed as "minor" offenses can be daunting. Faced with the prospect of unlikely adjudication through the courts, many campus law enforcement agencies have turned to internal institutional disciplinary procedures as a means of addressing alcohol violations, in particular. If the inclusion of alcohol and drug offense statistics in the required annual campus security report is intended to measure institutional responses to these problems, Section 485(f) should be revised to call for the tabulation of all persons charged with such violations—either internally through campus disciplinary systems or externally through the courts.

A final observation regarding the current state of campus crime reporting practices related to Section 485(f) is that the U.S. Department of Education must be perceived as being serious about enforcing the provisions of the law if a higher level of compliance is to be achieved. The leadership of IACLEA have discussed with the Secretary and others within the Department our concerns that without a monitoring program, the effectiveness of the law rests upon the good intentions of our colleagues who may be making every effort to do what is right—but who sometimes face opposition from other campus administrators who are more concerned with "image" than with campus safety. In my experience this unenlightened view is certainly the minority model, but as institutions compete for students and the media persists in establishing "rankings" based on reported crime statistics, the temptation to understate a school's crime rate will grow in inverse proportion to the perceived likelihood of being held accountable for those numbers. At a minimum, the Secretary should exercise the provision of the law whereby every institution may be required to submit their statistics.

I will now offer my observations with respect to H.R. 2416, the "Open Campus Police Logs Act of 1995." This Bill would amend Section 485(f) to require postsecondary institutions to create and maintain daily chronological logs of all crimes against persons and property reported to their campus police or security departments, including the date, time, and location of such crimes and the names of and charges against any persons arrested for such crimes. These logs would not be required to include other personal identification (unless otherwise provided by law) or information related to the investigation of the crime, and would be open to public inspection. Similar legislation currently exists in several states. Even in states where it does not, many institutions have established voluntary programs which are consistent with the intent of H.R. 2416. At the University of Delaware, for example, a Daily Update of Reported Crimes and Incidents is posted electronically to the Public Safety computer bulletin board where it is accessible to interested readers throughout the campus and the world via the Internet and the World Wide Web. Other campuses have similar programs in place. It is through such applications of technology that the true value of an open campus police log as a public-awareness tool might be realized. I would therefore urge that if H.R. 2416 were to become law, the implementation regulations clearly allow for an electronic format. To require the keeping of a "paper and pencil" log would limit the creativity of postsecondary institutions, crime awareness initiatives.

I would further urge the inclusion in H.R. 2416 of the following language from the Virginia statute regarding campus police crime logs: "*... however, where the release of such information is likely to jeopardize an ongoing criminal investigation or the safety of an individual, cause a suspect to flee or evade detection, or result in the destruction of evidence, such information may be withheld until the above-referenced damage is no longer likely to occur from the release of such information.*" There are sometimes circumstances in which the immediate release of information regarding a reported crime or the arrest of an individual could result in the sort of jeopardy noted, and the Commonwealth of Virginia has wisely provided this clause to mitigate any potential difficulties. This is a model which should be followed at federal level. I would also recommend that any implementations regulations make it clear that the specificity required as to the "location" of a reported crime should not be more precise than the identification of the building involved. The inclusion of a room number in the log, especially in the case of a residence hall location, would effectively defeat the protection offered by the exclusion of the names of victims, witness, and suspects.

It must be pointed out that the categories of crime which would be required to be logged pursuant to H.R. 2416 are not consistent with existing the existing classifications for which statistics are to be compiled under Section 485(f). On one hand, the requirement to log all reports of "crimes against persons or property" is more inclusive than the current standard. As I have noted, the inclusion of larceny statistics in the annual Campus Security Report would have some merit. Certainly, there would be little in the way of additional clerical burden at the end of the year if those reports were being logged on a daily basis. On the other hand, the "crimes against persons or property" description leaves out those arrests for alcohol, drug abuse, and weapons possession violations (best described as "crimes against public order") which are required to be published on an annual basis. This appears to be a major discrepancy, given the relationship which recent studies have identified between alcohol abuse, in particular, and many other crime problems on college and university campuses.

One question which should be asked when any Bill is being considered is what public need would be met by its passage and, in the case of an amendment to the Higher Education Act, at what cost to postsecondary institutions? The existing stipulation within Section 485(f) which requires the provision of some sort of timely notice to the campus community regarding reported offenses which are considered to represent a threat to the safety of students and employees would seem to cover the "public awareness" issue, at least as it relates to serious offenses. In the absence of an electronic medium which would make a daily crime log conveniently available to everyone in the campus community, it is probable that the only regular readers of the log would be the members of the student press. This brings to mind an incident of a few years ago in which a student victim of sexual assault came forward and related her experience to a reporter for a campus newspaper. The front-page story referred to the victim as a woman "who requested that her name not be used," but upon turning to the second page of the article the reader came upon her name—right there in print. It was a classic example of unprofessional editing, but the moral of the story is that a request that your name be withheld is no guarantee of anonymity. It is vital, therefore, that the incidents recorded in a campus daily log be described in such as way as to protect the privacy of persons who have not been arrested. Simply keeping a log of reports should not have a chilling effect on the reporting of sensitive crimes, but the inappropriate disclosure of information through such an official medium could set victim support efforts back significantly. In terms of cost, the burden of compliance with a requirement for a daily log would fall most heavily upon those institutions which have allocated the fewest resources to their security programs. In many small campus security organizations, clerical support is virtually non-existent. This is not to say that campus safety should not be assigned a higher priority than might currently be the case at some institutions, but the reality is that any time which must be devoted to office duties in those organizations must necessarily come at the expense of "patrol" time.

It might be thought that the daily log requirement of H.R. 2416 will solve the perceived problem of under-reported campus crime by providing a basis for double-checking the accuracy of the statistics included in the annual campus security report. This would imply that the problem in need of a solution is the conscious practice, on the part of campus police and security units, of deleting certain crime statistics from the annual tallies in an effort to "cover them up." In truth, the major reason for a "reality gap" between what may be occurring on a campus and the crime statistics which are being compiled annually is the fact that some crimes simply aren't being reported to the campus law enforcement units at all. Similarly, logging the names of persons who have been arrested would not shed any additional light on the identities of those individuals who have been dealt with solely through internal campus disciplinary procedures.

In summary, with the incorporation of the recommended language from the Virginia campus log statute, the expressed flexibility to comply with the provisions of the Bill through the application of technology, and careful guidance regarding the identification of crime locations, there would be little negative impact associated with the passage of H.R. 2416. The proposed implementation date of September 1, 1996, is somewhat unrealistic, however, given the probable need for the development of rather detailed regulatory language.

Thank you for the opportunity to address these issues.

Chairman McKEON. Thank you. Ms. McGuire.

STATEMENT OF PATRICIA McGUIRE, PRESIDENT, TRINITY COLLEGE

Ms. McGUIRE. Good morning, Mr. Chairman, and thank you so much for inviting me here this morning.

I am the President of Trinity College, a four-year, Catholic liberal arts college for women located here in the District of Columbia in the northeast sector. We are a highly diverse campus. Our students include young women residing on campus from all over the country, as well as older women who attend our school at nights and on weekends. Our campus residents also include elderly nuns in a convent living on our campus, members of an Elder Hosta Program, and many other kinds of residents, as well.

Because of the location of our school, I am a daily practitioner of campus security issues. We do everything possible to make our campus secure. We spend more than half a million dollars per year on a $12 million budget to maintain security. We have a 32-member security force. In addition, we spend over $100,000 a year in capital improvements on things like lighting, alarms, security systems in the buildings, and so forth.

Unlike the idyllic refuge that Congressman Goodling described, and I, in fact, can appreciate that since that is the image of many campuses, I run a college for women in a city notorious for its high crime rate. The "Washington Post Magazine" just on Sunday had a story about the deterioration of police services in the District. We could have written that story. We have experienced that problem.

I have corresponded directly with Members of Congress about the problems of campus security here in our very own city, and on countless occasions I have met with the DC Police. Indeed, in seven years as President of Trinity College, there are few issues that have consumed more of my time on a daily basis than campus security.

I know what it is like to have to decide to buy more lights and hire more guards rather than buying computers and library books. I know what it is like to drive up Michigan Avenue at midnight and find my students walking alone in spite of all of the warnings we have given to them, and I generally pick them up and take them over there to that other university and give them a lecture along the way.

I know what it is like to be awakened at three o'clock in the morning by my campus security chief because I have standing orders that I am to be called whenever there is a security incident in the middle of the night.

Security is really the only issue that keeps me awake at night. I am proud to say that in my seven years at Trinity as our campus crime report will show, we have not had a single personal injury crime, but I also know that we cannot rest easy; that, in fact, crime always has an opportunity to happen if we are not eternally vigilant.

We take the Campus Crime and Security Act very seriously. Indeed, we go well beyond the provisions of that Act and will continue to do so.

I welcome and applaud all efforts of Members of Congress and your constituents to assist me and other colleges with this terrible burden of campus security. We need all the help we can get. But we also need the right kind of help, and I do have several reservations about the proposed legislation.

We are happy to report all incidents that occur, and indeed, we do so at Trinity College. However, the good intent of this particular legislation, we believe, will be lost in the maze of administrative procedures. We do not need to spend more money on record keeping and on disclosure. If I have any more money to spend on campus safety, I would like to spend that money on more guards and more measures to prevent crime from happening rather than reporting crime after the fact.

We consider every crime that happens a failure of campus security. We do not want to report more failure. We want to report more success in preventing crime.

I would like to raise several questions about the proposed legislation for your consideration as you move forward. First, it raises a large possibility of conflict with State law, which is the traditional province of police regulation.

Some States, as you know, indeed, I understand that your own States have open log laws already. In the State of Minnesota, one college, Moorhead State, was accused recently of not implementing the Crime Awareness and Campus Security Act at the Federal level. What the investigators of this particular college found was that the State's campus crime law had different reporting categories than the Federal law. The college had reported according to the State categories rather than using the Federal guidelines, and to date, while no determination has been made in this case, this case illustrates the problem that arises in campus security when the Federal law conflicts with the State law.

Second, there is a large concern in this particular proposal about the confidentiality of victims. An area where we have heard specific concern over and over again about reporting concerns sexual offenses. The law is already clear that if college authorities are involved, they must make apparent to the victim his or her right to file a criminal complaint, but there are times when the victim does not want to exercise that option. By reporting disclosure of things like the location of crimes, especially for college dormitories, it is very easy therefore to find out the nature of the victim and the name of the victim, and we would urge great caution in that section of this proposal that could possibly lead to under-reporting of sexual offenses rather than achieving the result you desire.

Third, we are concerned about the disclosure of information while criminal investigations are proceeding. Police procedures on our campuses sometimes require extended investigation, and we hope that that particular concern would be addressed in any final legislation so that our police can continue their detective work when need be.

Fourth, we are concerned about administrative burden and increased cost without appreciable benefit. As I said, spending over a half million dollars on campus security, we will spend money. We do not think it is well spent on clerks. We think it is better spent on improving crime prevention rather than crime reporting.

Possibly solutions to some of the issues I raise. As an alternative to the proposal under consideration, I offer two suggestions.

First, a number of States have already enacted open crime logs. Let's see what the results of that natural experiment are before we proceed with Federal legislation to see if the State legislation might be working, and we can operate at the State level.

Second, we would also like to hear more from the Department of Education about the effectiveness of the implementation of the existing Campus Crime and Security Act as it already exists, and based on that data and information, then perhaps we will have better information to revise the law as it currently exists.

Thank you, Mr. Chairman.

[The prepared statement of Ms. McGuire follows:]

STATEMENT OF PATRICIA MCGUIRE

Mr. Chairman, my name is Patricia McGuire. I am pleased to appear before you today to discuss H.R. 2416 and this Committee's consideration of the possible need for legislation to augment the efforts colleges have made to provide a secure environment for their students.

I am president of Trinity College, a four-year private liberal arts college for women located in Northeast D.C. Trinity's student body includes young women from around the country, whose parents want assurance about their safety, and older women, whose attendance at night and on weekends heightens their own interest in campus security. Because of the location of the school, I am intensely involved with issues relating to the safety and well-being of our students. We do everything that we can to make our campus secure: approximately $500,000 of Trinity's $12 million budget is devoted to security; we regularly encourage students to consider their personal safety at all times; we frequently conduct personal safety seminars; and we have a 32 member security force devoted to making the Trinity campus as safe as possible. Additionally, Trinity spends over $100,000 in capital improvements annually on lighting, alarm systems, and the like.

Much as we all might wish otherwise, no inner-city college campus is an island that can be separated from the neighborhood in which it is located. I cannot emphasize enough how strongly I feel about campus safety; if Trinity College is unsafe, I cannot in good conscience encourage families from all over the country to send their daughters to enroll at my institution. I believe we have done a good job of addressing campus security, and I am always looking for ways to improve it. I have attached to my testimony a copy of the most recent campus crime survey for the Committee's review.

The particular bill this Committee is considering (H.R. 2416) provides that colleges and universities must create and maintain a daily log recording, in chronological order, all crimes against persons or property reported to the campus security office. The log must identify the date, time, and location of such crimes, provide the names and addresses of individuals who have been arrested in connection with a crime, and be open to public inspection. If enacted, this would be the third piece of campus safety legislation to be approved in the last six years.

We recognize the high level of concern about questions of campus safety. It is a concern deeply shared by all of us in higher education who care about our student's and our staff. In addition to being engaged in crime prevention efforts, campuses across the country are compiling and publishing crime statistics in accordance with the Crime Awareness and Campus Security Act of 1990. Regulations for the Act were final in April 1994, and a detailed account of what they entail can be found in the statement provided by Douglas Tuttle.

Mr. Chairman, the implication of H.R. 2416 is that one more public disclosure law will accomplish the goal of minimizing the occurrence of crime on campus, or will do something to promote that goal that other laws have failed to do. Is there any evidence that this additional disclosure legislation will have that effect? Why is this particular approach—the mandating of daily crime logs that will be open to public inspection—the domain of the federal government rather than state governments? Will it have unintended negative consequences? Isn't this legislation proscribing a federal mandate for colleges that most states have not even imposed on local law enforcement agencies? What should a college do when the provisions of this legislation conflict with state law? Should the college comply with the state law or with the federal law? Is it reasonable to require colleges to comply with two different open crime log laws?

An example will illustrate my point. Earlier this year, the Department of Education, following a complaint from a dismissed employee, sent investigators to visit Morehead State University in Minnesota. The college was accused of not implementing the Crime Awareness and Campus Security Act. What the investigators found was that the state's campus crime law had different reporting categories than the federal law. The college had reported according to the state categories, rather than using the federal guidelines. To date, no determination has been made about how to resolve this conflict, and whether the college will be required to issue two separate reports in order to be considered in compliance.

The proposal you are considering will conflict with state laws in other ways. For example, some states *prohibit* the public identification of juveniles who are arrested. However, this bill would *require* that these individuals be identified. What should a college do in this or a similar case where the dictates of this act conflict with state statutes? I would encourage this Committee to exempt from the provisions of this act any school in a state that already has a campus crime log law. In addition, I would ask the Committee to make clear whether federal preemption of state law applies when conflicts arise between federal and state law.

One of my primary concerns is that the legislation, as drafted, may well lead to an underreporting of certain types of crimes. An area where we have heard specific concern about inconsistency or underreporting concerns sexual offenses. The law is already clear that if college authorities are involved, they must make apparent to the victim her or his right to file a complaint. But there are times when the victim does not want to exercise that option, sometimes because of ambiguities about the circumstances that would make successful prosecution unlikely. Further, victims of sexual offenses need counseling. Effective counseling makes it more likely that they will be willing to press charges when that is appropriate. If campus security logs become public documents, victims may be even more reluctant to report incidents, and college and university officials may have fewer opportunities to offer assistance. Our first concern should be for victims—most often young women who need and deserve support. That support makes it more likely that offenses will be reported properly and dealt with in the most appropriate way, including the formal criminal justice system.

Still another problem with the legislation as drafted is that premature disclosure of information in some cases may jeopardize an ongoing criminal investigation. Such an outcome is not what this Committee would intend, of course, and I would strongly encourage the Committee to include a provision that allows the release of information to be delayed until the investigation is at a stage where it no longer will be jeopardized.

Another concern is that this legislation appears to contradict the desire of many in Congress and in the Administration to reduce duplicative and burdensome federal regulations. Higher education suffers from a great many of these types of regulations. Any time federal regulations are imposed on a college campus, they carry a cost. The cost of this piece of legislation, like the cost of so many others, is said to be modest. (I have never seen a piece of legislation that was described as being "costly" to implement.) Since the costs of regulatory compliance must often be passed on to students in the form of higher tuition, careful thought should be given as to whether the likely benefits of any regulatory measure, including this one, are worth higher tuitions for students.

Further, I have a practical concern regarding the September 1, 1996, effective date established by the legislation. The only way this date can be met is if the Department of Education publishes no regulations to guide colleges in the implementation of the legislation. Without regulations, colleges will have no way to answer the myriad detailed questions that inevitably arise when new federal laws must be moved from Capitol Hill to the campus. If colleges make their own decisions about these details, there will be great variation from campus to campus in the results of the legislation. I would strongly recommend that any legislation such as this be subject to the provisions of the Master Calendar in Section 482 of the Higher Education Act

As an alternative to the proposal under consideration, I would like to offer two suggestions that this Committee might take without enacting new legislation at this time. First, a number of states already have enacted open crime log laws that apply to colleges and universities. I am not aware of any evidence indicating that fewer crimes are committed on college campuses in those states than in states where open crime logs are not kept However, the presence of such a "natural experiment" means this question can be answered before new regulatory mandates are imposed. I encourage the Committee to examine the analytic evidence to determine whether open crime log laws do in fact lead to a reduction of crimes committed on campus.

Second, the Committee should direct the Department of Education to accelerate its study of how well the Crime Awareness and Campus Security Act is working. Colleges and universities are eager to comply with this law. If there are misunderstandings about what is required, clarification would benefit all parties, and if there are any cases of deliberate failure to make proper reports, those should be dealt with. Both of these initiatives could be completed in a timely fashion, and could provide a sound basis for making any necessary future changes to the existing array of campus crime legislation.

In conclusion, Mr. Chairman, I would like to state that no one has a greater interest in the safety of students at Trinity College than I do. If I felt this legislation—which promises safer campuses at minimal cost—would work as advertised, I would support it enthusiastically. Colleges and universities will not hesitate to implement this legislation if Congress approves it. But I do not believe this bill would be effective, and it would divert from the hard work necessary to make every campus safer and every student more secure.

Trinity College
Washington

Campus Crime Report

(The following report is excerpted from the Middle States Accreditation Self-Study submitted in January, 1996; this material, along with more detailed Campus Safety information including the Campus Safety Handbook, is available upon request in the Admissions Office and Campus Safety Office, and the Handbook is distributed to all students every year.)

C. CAMPUS SAFETY AND SECURITY

Campus Safety and Security plays a large role in the creation of an "effective environment". The office of Campus Safety and Security functions through a combination of active and passive mechanisms. Although the office's primary role is viewed as preventing criminal behavior, it also oversees the personal safety of faculty, students, and staff in case of a medical emergency, and through oversight of hazardous situations and environments.

Security at the College has been provided under a contract with the outside agency, Rumpf Corporation, since 1988. Its staff, with the exception of the Director of Operations who is a member of the senior administrative staff of the College, is trained and hired under the terms of the contract. The annual operating budget for Campus Safety is $600,000 to $700,000 annually.

All security guards are licensed by the D.C. Police Department as security officers or special police officers and are empowered to make arrests on campus. All guards are required to attend a 20-hour training program dealing with such topics as patrol techniques, public relations, dealing with assault and crime victims and safety related issues. All are required to be certified in CPR and first-aid skills. Additional training comes in the form of campus safety training bulletins which include additional policies and reminders. These bulletins regularly included reminders of the strict prohibition of personal involvement with students, guidelines for entering a student room, and updates on crime in the area surrounding the campus.

The residence life staff are essential partners in the Campus Safety Program. They are the primary contact with students in all matters related to security and the handling of emergencies. As such, they work closely with the security staff both in training and education of the campus community, and in the implementation of the emergency procedures.

1. Campus Crime Statistics

Trinity's campus in Northeast Washington is part of an urban environment, even though the campus proper is park-like and surrounded by residential and educational/religious institutions. Campus security must address the realities inherent in the College's location. Fortunately, the incidence of campus crime is low as a result of deliberate measures taken to deter crime and to educate the campus community about its role in preventing crime. The following chart indicates crime statistics for Trinity since 1990:

TRINITY COLLEGE CRIME STATISTICS
1990-1995

CRIME	1990	1991	1992	1993	1994	1995
ROBBERY	1	0	6	1	0	0
MURDER	0	0	0	0	0	0
RAPE	0	0	0	0	0	0
AGGR ASSAULT	0	0	0	0	1	0
BURGLARY	3	4	5	1	1	0
CAR THEFT	0	1	3	4	3	1
LIQUOR	0	0	0	0	0	0
DRUG	0	0	0	0	0	0
WEAPON	0	0	0	0	0	0
PETIT LARC	0	0	7	1	1	4
GRD LARC	0	0	0	0	0	1
ASSAULT	0	0	0	0	0	0
TRESPASS	0	0	0	1	1	0
UNLAWFUL ENTRY	0	0	0	0	0	0
THEFT FROM AUTO	0	0	0	8	6	2
THREATS	0	0	0	0	0	0
PROPERTY DAMAGE	0	0	0	0	0	2
TOTALS	4	5	22	16	13	10

Chairman McKeon. Thank you, Ms. McGuire.

And now Ms. Carlson.

STATEMENT OF CAROLYN CARLSON, SOCIETY OF PROFESSIONAL JOURNALISTS, CAMPUS COURTS TASK FORCE

Ms. Carlson. Mr. Chairman and Members of the committee, I appreciate the opportunity to talk to you today about public access to information on campus crime. My name is Carolyn Carlson. I represent the Society of Professional Journalists. I am a past national president of this group which represents every branch and rank of print and broadcast journalism, including both professional and student journalists.

I also come to you as the founder of the Campus Courts Task Force, which is a coalition of all the major associations representing professional and student journalists and journalism educators. This task force supports increased public access to crime information held in secret campus courts.

I asked SPJ to start this task force in 1993 following my experience as a member of the board of directors for the Red and Black, which is the independent newspaper on the campus of my alma mater, the University of Georgia. As a board member, I oversaw the newspaper's litigation to open up the university's campus courts. The Red and Black won two Georgia Supreme Court rulings granting access to disciplinary proceedings and records in cases involving hazing and arson.

After that I was determined to help students at other schools gain equal access.

Congress has shown its intent in this area when it passed the Student Right to Know and Campus Security Act of 1990, and when it amended the Higher Education Act in 1992 to make clear that law enforcement records are not to be restricted from public access.

We are here to tell you that students and their parents still cannot fully exercise their right to know about issues of campus security. With the U.S. Department of Education's support, schools are using the Buckley amendment to deny access to an entire spectrum of crime information that is now kept secret in campus disciplinary systems. The department has ruled that disciplinary records are educational records and not law enforcement records. Therefore, schools cannot release disciplinary records, even when criminal activity is involved.

But we believe that law enforcement records nationally should include information about how students charged with criminal behavior are disciplined by their schools, especially when schools do everything in their power to see that those incidents are never referred to criminal prosecutors.

Therefore, we are asking Congress to reaffirm that law enforcement records do include disciplinary records stemming from criminal activities. As long as this Buckley amendment barrier exists, universities and colleges will not comply fully with the intent of Congress to make crime information public.

My written testimony includes a letter from Education Secretary Riley to Congressman Goodling in which he says that Congress should examine the need to open disciplinary records to public inspection. We believe there is a great value to opening college disciplinary systems to public scrutiny. The public must know when and where crime occurs in order to avoid being victimized, and an open court system allows the public to judge its fairness.

At the University of Georgia, the Red and Black used its court granted access to examine the records for injustices, and it found that students accused of drunken driving received different punishments depending on which court procedure they happened to choose. This story prompted the school to reform its system to insure more equitable treatment for students accused of similar crimes.

This is just an example of the public service that students newspapers could perform if they had access to disciplinary records.

We also have received considerable evidence of faulty compliance with the Student Right to Know Act. In fact, it seems that discrepancies are found whenever anyone closely examines the reported statistics. My written testimony includes several examples of under-reporting, including one at Miami University in Ohio. The student editor there found a university published report of 119 rapes between August 1990 and May 1995. Yet Miami University has reported only five rapes under the Student Right to Know Act.

A member of the Campus Courts Task Force at Student Press Law Center gets calls every day from college journalists. Many voice complaints that colleges and universities are leaping through every loophole they can find to avoid the full disclosure of crime statistics. Often the discrepancies can be traced to the use of secret campus courts.

Congress can tighten this major loophole simply by removing the Buckley amendment barrier to access to disciplinary records.

The Society of Professional Journalists also supports the Open Campus Police Logs Bill of 1995, which would impose a Federal requirement for openness that we believe is needed in the areas where State laws fall short. We are pleased that it opens campus crime logs of private, as well as public, colleges. Our written testimony includes several examples of frustrated student media efforts to obtain crime information at public and private colleges. We urge Congress to adopt this bill.

And we would suggest further that Congress amend it to make public reports on all campus crimes, including those handled strictly through campus judicial programs.

Thank you.

[The prepared statement of Ms. Carlson follows:

STATEMENT OF CAROLYN S. CARLSON

Mr. Chairman and members of the Committee, I appreciate the opportunity to talk to you about public access to information about crime on the campuses of our nation's colleges and universities. My name is Carolyn Carlson. I speak to you today on behalf of the nation's professional and student journalists and its journalism educators.

Those of us in the news media feel strongly our First Amendment responsibility and ethical mandate to fight for a free flow of information on issues important to the public well being. We believe the public must know when and where crime occurs in order to avoid being victimized. We believe the public must clearly see how its government determines, stops, judges, punishes and prevents crime. Only then can it decide for itself whether its interests are adequately represented. Only then can the public know when to demand change. The public must be able to make informed decisions on its governance. That ability, of course, is the foundation of democracy. The issue before you today is therefore fundamental. You have the unusual opportunity to inform the American public on an issue of great importance. You can do so by removing barriers and, instead, requiring greater public access to reports of campus crime.

Congress showed its willingness in this area when it passed the Student Right to Know and Campus Security Act of 1990 and when it amended the Higher Education Act in 1992 to make clear that law enforcement records are not to be restricted from public access. We are here today to tell you that students and their parents still cannot fully exercise their right to know about issues of campus security. With the U.S. Department of Education's support, schools are using the Buckley Amendment to deny access to an entire spectrum of crime information now kept secret in campus disciplinary systems. As long as that barrier exists, universities and colleges will not comply fully with the intent of Congress to make campus crime information public.

I. My interest in campus crime issues

I represent the Society of Professional Journalists, which is a voluntary, non-profit organization of 14,000 members. It is the largest organization of journalists in the United States, representing every branch and rank of print and broadcast journalism, including both professional and student journalists. The Society has long been involved in efforts to safeguard its members' constitutional and common law rights of access to records and proceedings of public bodies, not the least of which are our nation's law enforcement and judicial systems. I am a past national president of SPJ. I also have chaired SPJ's National Ethics Committee. I am now a member of its Freedom of Information Committee. Professionally, I worked for newspapers in Georgia and Florida before joining the Associated Press in Atlanta in 1977. After 17 years at the AP, I recently returned to school as a full-time graduate student at Georgia State University in Atlanta. Therefore, I come to you today not only as a journalism leader but as a college student myself.

I also come to you as the founder and current vice chairman of the Campus Courts Task Force, which is a coalition of all the major organizations representing professional and student journalists and journalism educators (See Attachment A). The task force was started by the Society of Professional Journalists in 1993 to rally support for increased public access to crime information held in secret campus court systems. I asked the Society to take on this issue following my experience as a member of the board of directors for *The Red & Black*, which is the independent student newspaper at my alma mater, the University of Georgia. As a *Red & Black* board member, I oversaw the newspaper's litigation to open up the university's campus court system. *The Red & Black* won two Georgia Supreme Court rulings granting access to disciplinary proceedings involving hazing and arson. After that, I was determined to help students at other schools gain equal access.

The Campus Courts Task Force quickly learned that the primary obstacle to access to disciplinary records is the U.S. Department of Education's interpretation of the Buckley Amendment, or the Family Educational Rights and Privacy Act. The Department has said schools cannot release disciplinary records even when criminal activity is involved. We strongly support access to law enforcement records, as Congress made clear it did in 1992. We believe such records naturally include information about how students charged with criminal behavior are disciplined by their school, especially when schools do everything in their power to see that those incidents are never referred to criminal prosecutors. Therefore, the task force would ask Congress to reaffirm that the definition of law enforcement records includes disciplinary records stemming from criminal activities. And we want a federal requirement for public access to all criminal incidents that occur on campus, including those that schools attempt to hide in campus disciplinary systems.

II. Compliance with Student Right to Know Act

The Society of Professional Journalists took on the campus courts issue because it has a longstanding interest in public access to campus crime information. SPJ supported passage of the Student Right to Know and Campus Security Act. SPJ has encouraged its members to report on the statistics gathered under that law. We view with growing alarm the willingness of colleges to use loopholes to avoid complying fully with the law.

A survey conducted by William E. Whitman, director of the Campus Safety and Security Institute, in 1992, confirmed our mostly anecdotal evidence that administrators avoid compliance with the Student Right to Know Act by encouraging "students who were victims of reportable violent crimes not to report the crimes to campus police/security. If the attacker was another student, they encouraged the victim to use the campus judicial system." (Appendix B, page 3). Administrators believe crimes reported directly to the campus courts are not reportable under the Student Right to Know Act. Not only that, but schools keep all information on these crimes secret by relying on the Department of Education's position that the Buckley Amendment prohibits the release of disciplinary records. Whitman also found that students who are victims of crimes committed by nonstudents often are encouraged to report the crimes directly to local police instead of campus police or security guards. He identified this as another tactic "used to keep the crime from being reported as part of the institution's official statistics." (Appendix B, page 4).

Since Mr. Whitman's survey, we have continued to receive anecdotal evidence of faulty compliance with the Student Right to Know Act. In fact, it seems that discrepancies are found whenever anyone closely examines the statistics reported under the Student Right to Know Act. (For examples see Appendix C.) The Student Press Law Center, a member of the Campus Courts Task Force, is a not-for-profit organization that seeks to preserve and protect the legal rights of the student press. The SPLC gets calls every day from college journalists. And many voice complaints that colleges and universities are leaping through every loophole they can find to avoid full disclosure of crime statistics. (See Appendix D-1.)

From the SPLC's evidence, and Mr. Whitman's survey, the Campus Courts Task Force concluded that secret campus courts are commonly used to avoid complying with the Student Right to Know Act. Congress can tighten and remove this major loophole simply by removing the Buckley Amendment barrier to access to disciplinary records.

III. Open Campus Police Logs Bill of 1995

The Society of Professional Journalists also supports the Open Campus Police Logs Bill of 1995. SPJ has been intimately involved in the fight for improved access to crime incident reports since 1988, when it aided Tracy Bauer, then-editor of the student newspaper at Southwest Missouri State University. She set the most important legal precedent in this area of the law when she won a federal court ruling that the Buckley Amendment did not prevent the release of crime incident reports. SPJ used its Legal Defense Fund to underwrite the expenses involved in Tracy's lawsuit. (See Appendix E.) During my term as president of SPJ, from 1989 to 1990, I visited Springfield, Missouri, to extend my support to Tracy's efforts. After she won her lawsuit in 1991, SPJ and the SPLC published a manual for student journalists to use in covering crime on their campuses.

We continue to support efforts to improve access to crime information. The SPLC has collected numerous reports of thwarted access. At Eastern Illinois University, student journalists had to sue to get reports of campus sexual assaults. (See Appendix F.) The school eventually agreed to make the reports public, after deleting the names of crime victims following a court ruling that such information was not covered by Illinois' open records law.

Student journalists at the University of Richmond were denied access to campus law enforcement records and a Virginia court ruled that the denial was legal because the private school was not subject to the state's open records law. (See Appendix D-2.) The state Legislature eventually amended Virginia's law to include these records, but the case offers a perfect example of the importance of the Open Campus Police Logs Bill of 1995. In most places, students at private schools have little if any right of access to campus crime logs. This legislation would require such information to be made public at any private school that receives federal funding.

The need for a federal requirement for open campus police logs is further illustrated by two other cases. In Minnesota, the state Legislature had to amend its open records law to make public crime reports and incident logs at public schools, after a federal court ruled that Bemidji State University did not have to release such information (See Appendix D-3.) In Pennsylvania, the state Supreme Court ruled just this past April 16 that public colleges and universities are not covered by the state's open records law and thus did not have to provide access to crime information. (See Appendix D-4 and D-5.)

The Society of Professional Journalists supports the Open Campus Police Logs Bill of 1995 because it would ensure broad public access to information about campus crime. We believe an informed public is safer, and better able to make decisions regarding its well being. The Open Campus Police Logs Bill would impose a federal requirement for openness that is needed in areas where state Freedom of Information laws fall short. And it would give members of private college communities the same access to crime information as their counterparts at public colleges. Therefore we urge Congress to pass this bill.

IV. U.S. Department of Education's definition of law enforcement records

I was asked to talk with you today about the past modifications to the Buckley Amendment designed to allow the release of law enforcement records which were not part of a student's academic record. We would like to commend this committee for its leadership in this area. But we must inform you that we believe the Department of Education has thwarted your intention of allowing public access to all information about crimes occurring on our nation's campuses. The Department adopted regulations enforcing the Higher Education Amendments of 1992 in which Congress intended to ensure that law enforcement records were not hidden under the Buckley Amendment. Despite that intent, the Department's regulations state that disciplinary records that relate to serious criminal incidents remain under the secrecy requirements of the Buckley Amendment.

The Campus Courts Task Force argued strongly against the Department's proposed definition of disciplinary records as "educational records" covered by the Buckley Amendment. (For example, see Appendix G.) We believe that disciplinary records involving criminal behavior should be considered part of law enforcement records. The public's right to know about criminal incidents logically includes a right to know how colleges and universities treat the people accused of committing crime. Such information is public when crimes occur off campus. The public interest is no different for crimes occurring on campus. The Department of Education, however, is unwilling to make the same connection between the right of access to police reports and the right of access to disciplinary records involving criminal incidents. Secretary of Education Richard Riley, therefore, wrote to your committee chairman, Representative William F. Goodling, and advised this committee that the Department of Education needed further guidance from Congress before it would embrace our argument for access to disciplinary records involving criminal behavior. (Appendix H.)

Therefore, I ask you today to declare Congress' intention to remove all federal barriers to public access to crime information now hidden in disciplinary files. (See Appendix I.) In addition, I would ask that Congress not only remove the existing barrier to access, but that you also expand the Open Police Logs Bill to require public access to information about how students accused of criminal behavior are disciplined by their schools.

We believe there is great value in opening college disciplinary systems to public scrutiny. As long as crimes are hidden in secret court systems, the public cannot protect itself adequately against victimization. Public disciplinary procedures and records also serve to promote law abiding, adult behavior by allowing young adults on college campuses to learn the realistic consequences of anti-social and criminal behavior. (See Appendix J.)

Access to information about how schools discipline criminal behavior also allows the public to judge the fairness of the disciplinary system. At the University of Georgia, *The Red Black* had access to disciplinary records for a time under its hard-won Georgia Supreme Court victory. An examination of those records found that the system offered different punishments to students accused of drunken driving, depending on which procedure they chose to follow. This examination prompted the school to reform its system to ensure more equitable treatment of students accused of similar crimes. (See Appendix K.) This was just an example of the public service that student newspapers could perform with access to disciplinary records.

V. Conclusion

In summary, the Society of Professional Journalists asks Congress to amend the Federal Educational Rights and Privacy Act to define disciplinary records as public information. Such an action would remove a major loophole that now allows schools to avoid reporting crime statistics under the Student Right to Know Act, and it would fulfill the Congressional intent of making public all information relating to campus crime. We ask Congress to pass the Open Campus Police Logs Bill of 1995 in order to set a uniform national standard for public access to crime logs in public and private college campuses. We ask Congress further to amend the bill before it to expand that national standard to cover all campus crimes, including those handled strictly through campus judicial programs, and to require public access to information about how colleges and universities discipline students accused of criminal behavior.

Appendix to Testimony of
Carolyn S. Carlson

Appendix A: Campus Courts Task Force roster

Appendix B: "Survey of College and University Law Enforcement Personnel to Determine Compliance with Campus Crime Disclosure Laws," by William E. Whitman, director of the Campus Safety and Security Institute, 1992

Appendix C:

1. "Campuses ignoring law on reporting violent crimes," by John Hanchette, Sunday News Journal, Jan. 14, 1996
2. "With Colleges Holding Court, Discretion Vies With Fairness," and sidebars, by Nina Bernstein, The New York Times, May 5, 1996
3. "Behind Some Fraternity Walls, Brothers in Crime," by Nina Bernstein, The New York Times, May 6, 1996
4. Letter from Jennifer Eileen Markiewicz (student at Miami University) to Carolyn Carlson, June 3, 1996

Appendix D:

1. "Looking for Loopholes," SPLC Report, Spring 1993
2. "Richmond Paper Denied Access," SPLC Report, Spring 1993
3. "Access right rejected, " SPLC Report, Spring 1993
4. "Community college paper goes to court for crime info," SPLC Report, Spring 1993
5. "Student newspaper challenges the CCP administrators," by Howard Goodman, The Philadelphia Inquirer, April 25, 1993

Appendix E: "Bauer Wins!" by Eileen Lockwood, Quill, April 1991

Appendix F: "Student seeks sexual assault reports," SPLC Report, Winter 1994-95

Appendix G:

1. Comment Letter to the Department of Education by Robert Lystad, counsel for SPJ, February 9, 1994

2. Comment Letter by Gordon McKerrall, current Campus Courts Task Force chairman, February 14, 1994

Appendix H: Letter from Secretary of Education Richard Riley to the Hon. William Goodling, January 10, 1995

Appendix I: "Law masks serious crimes on campus as 'maturing' process," by Michelle Millhollon, Quill, October 1995

Appendix J:

1. "Students Should Not Be Above the Law," by Boston University president John Silber, The New York Times, May 9, 1996
2. "The Need for Access to Student Disciplinary Records," by Bob Beyers, The Chronicle of Higher Education, June 8, 1994
3. "Campus courts often don't dispense justice,"USA Today, February 13, 1996

Appendix K: "Busted? Peers most likely to suspend you," by Jennifer Baker, The Red & Black, May 24, 1994

EXHIBIT A

Campus Courts Task Force Roster

American Society of Newspaper Editors

AP Managing Editors Association

Associated Collegiate Press

Association of Educators in Journalism and Mass Communications

Association of Schools of Journalism and Mass Communications

Black College Communications Association

College Media Advisers

National Association of Black Journalists

National Conference of Editorial Writers

Radio and Television News Directors Association

Student Press Law Center

Society of Professional Journalists

Society for Collegiate Journalists

Reporters Committee for Freedom of the Press

EXHIBIT B

Survey of College and University Law Enforcement Personnel to Determine Compliance With Campus Crime Disclosure Laws.

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Written By:
William E. Whitman
Director
Campus Safety and Security Institute
11 Ingleside Drive
Thorndale, PA 19372

A survey conducted by the Campus Safety and Security Institute (CSSI) shows that many colleges and universities across the country are continuing to conceal the true picture of crime and violence on campus. Many college and university administrators are buying into a belief that if they report accurate crime statistics they will have a difficult time recruiting qualified applicants and attracting significant endowment money.

These administrators chose to put their money and energy into covering up the truth, instead of putting their resources into correcting the problem.

Background:
In preparation for a presentation at the Sixth National Conference on Campus Violence, CSSI director William Whitman found that many colleges and universities were not in compliance with either state or federal statutes requiring the disclosure of campus crime statistics and campus security policies.

As a result of this information, CSSI began to interview campus police and security personnel to determine the extent of the non-compliance. The term "non-compliance" may be a misnomer. The term "non-compliance" refers to institutions who are deliberately providing false information on reportable crime statistics. Examples of how this is being done will be discussed later.

The term "reportable crime statistics" refers to those crime statistics that are required to be disclosed either under appropriate state statute or under Title II of the Student Right-To-Know and Campus Security Act of 1990.

The Survey:
A total of 336 four-year colleges and universities, both public and private from across the country, were surveyed. The group was broken down into several sub-groups: East and West (of the Mississippi), public and private, and enrollment above and below 6000. The survey attempted to maintain a ratio within the sub-groups that reflected the true ratio of those sub-groups across the country.

The confidential survey was conducted by phone over a two month period and surveyed campus police and security personnel.

Results:
CSSI found that of the 336 institutions surveyed 108 (32%) were not providing accurate campus crime statistics.

A review of the survey (Attachment #1) reveals several significant trends. First, of the 112 institutions in the West group, only 16 (14%) are not providing accurate statistics. However, of the 224 institutions in the East group 92 (41%) are not providing accurate statistics.

Second, when looking at the difference between public and private institutions another trend is seen. Of the 164 public institutions, only 23 (14%) are not providing accurate statistics. Looking at the 172 private institutions surveyed, results show that 85 (49%) institutions are not providing accurate statistics.

Additional information is revealed when the institution's enrollment is taken into account. There were 112 institutions with an enrollment over 6000 who were surveyed. Of those 25 (22%) reported not providing accurate campus crime statistics. Of the 224 institutions with an enrollment of 5,999 or lower, 83 (37%) did not provide accurate statistics. A closer look at both groups reveals that private institutions make up the greatest portion of non-compliance.

Additional Findings:
The false reporting centered on, but was not limited, to the crimes of rape, sexual assault, larceny/theft, domestic violence, hazing and various drug and alcohol violations. The primary method used to keep crimes from becoming reportable was to use the campus judicial/student court system. Administrators would encourage students to use the student court system, citing various advantages from the victim's point of view. These same administrators would then invoke the Buckley Amendment to keep the information from public view.

Campus administrators would also encourage students who were victims of reportable violent crimes not to report the crimes to the campus police/security. If the attacker was another student, they encourage the victim to use the campus judicial system. If

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the attacker was not a student, or if the victim insists on pressing criminal charges, they encourage the victim to file charges with the local police. In both cases, these tactics were used to keep the crime from being reported as part of the institution's official statistics.

Several institutions with sworn police officers on staff issued a directive stating that no student was to be cited (arrested) for alcohol violations. The officers were instructed to refer all violations to the campus judicial system. In this way, student alcohol violations do not become part of the reportable statistics. In the past, officers had the discretion on an incident by incident basis whether a citation would or would not be issued.

Many justifications were used to rationalize why institutions did not disclose crime statistics that may paint a negative image. These ranged from, "we don't want to unnecessarily panic the campus community" to "they don't need to know... besides how would it look to our alumni and contributors."

The responsibility for falsifying reportable crime statistics usually rested with one, or several, high level administrators. The individual could be the president or an administrator in a position of influence.

CSSI found that a cover-up can be orchestrated by a single high level administrator, who in many instincts believes he or she is doing what is best for the institution. A recent example of this can be found at the University of South Florida. Although the university police conducted a thorough investigation and were ready to prosecute the attacker, a star basketball player, the victim chose not to pursue criminal charges and recanted her accusations.

This decision occurred after she had a meeting with the Vice President of Student Affairs. In this meeting the Vice President of Student Affairs stated that the victim wanted to drop the issue. After an investigation by the Board of Regents, the vice president acknowledged the victim did not recant her statement. The vice president has since resigned.

The survey also revealed that several Directors of Security were told they could look for a new job if they ever revealed the institution's true statistics. Other directors stated that control over compiling the reportable statistics had been taken out of their hands. They stated, now one or more high level administrators decide if image damaging incidents become part of the reportable statistics.

In a document titled, "Complying With The Campus Security Act -- 1990," prepared by the National Association of Student Personnel Administrators, Inc. in conjunction with NACUBO and ten other associations, colleges and universities were given a framework for compliance. The document stated that it, "strongly encouraged campuses to establish a campus-wide committee to review their security policies and emergency procedures in the context of the new legal requirements. Headed by a senior administrator, the team should include representatives from a wide range of campus agencies." The survey showed that just about every institution surveyed followed this recommendation.

However, at those institutions that concealed their true crime statistics, it was learned that representatives from the admissions, endowment/gift giving and public relations departments held the greatest influence over the decisions reached. Many justified not revealing accurate crime figures because they believed that other schools would not be truthful in their reporting of campus crime statistics. The sad fact is, that when we look at small private colleges, they are probably correct.

Conclusions:
No matter what pretence is used to justify this deception, whether it is recruitment, endowments, or image, the bottom line appears to be, money. As long as the compensation structure and continued job retention of admission counselors and gift giving personnel is predicated on the numbers they produce, they will continue to feel the need to advise against the disclosure of negative information.

Documented crime prevention research has proven time and again, that the only way to significantly reduce crime is through a comprehensive crime prevention program in which the community is viewed as an equal partner with law enforcement agencies. The community must know what crimes are occurring in the community, they must be instructed in methods of reducing their risk of becoming a victim, and they must be encouraged to report all crime and suspicious activity in their neighborhood.

Local communities throughout the country have learned these lessons over the last twenty years. And because of their efforts they have been able to reduce crime in their communities. Until college and university administrators learn this lesson, they will never be able to reduce campus crime.

College and university administrators are upset with this legislative intrusion that now requires all institutions to publish campus security policies and crime statistics. These administrators need to realize, the public demanded this legislation because they believed our institutions of higher education were not being honest about crime and violence on campus. These same administrators need to realize that continued deception will result in continued legislation.

At the time this article was written, the United States Senate and House of Representatives had just passed an amendment to the Higher Education Reauthorization Act. This bill, the "Campus Sexual Assault Victims Bill of Rights Act" will soon be sent to the president for signing. This piece of legislation grew out of a need to protect sexual assault victims and potential victims because many academic institutions were, again, covering up the truth.

State governing bodies, boards of trustees, boards of regents and campus administrators must step in and demand that the integrity of academic institutions be held to a higher standard than we currently have. Colleges and universities no longer enjoy the unquestioned confidence of staff, students, and parents when it comes to safety and security on campus.

There have been too many documented cases of deception and cover-up for institutions to expect the public to take them at their word. Each time another case of deception and cover-up is exposed, every college and university suffers.

The deception must stop, and it must stop now. Over two-thirds of the institutions surveyed are reporting their security policies and reportable crime statistics honestly and truthfully. For academic institutions, whose very existence is based on public confidence and trust, these findings are scandalous. Business officers in every institution must join together to denounce the actions of the minority. Because, until the minority can be trusted, all institutions will suffer.

Author information:

William E. Whitman is director of the Campus Safety and Security Institute and lectures on issues of campus crime victimization and sexual assault.

Survey of 336 Colleges and Universities

On Compliance With State and Federal Crime Disclosure Laws

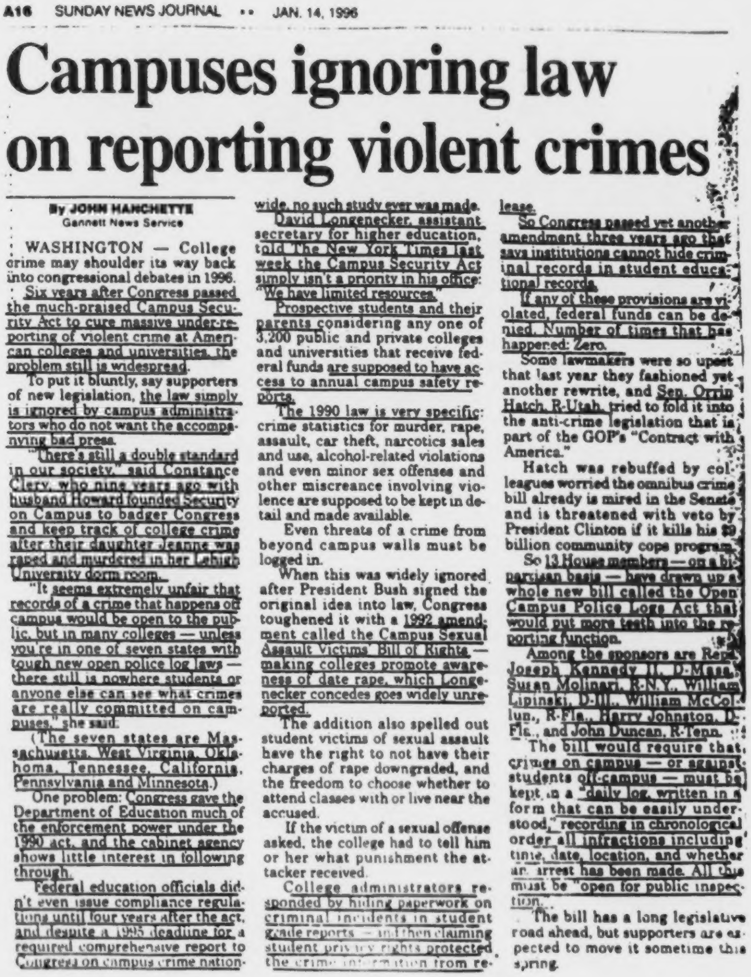
	Institutions	Fraud		Public Enrollment Over 6000		Private Enrollment Over 6000		Public Enrollment Under 6000		Private Enrollment Under 6000	
		#	%	#	%	#	%	#	%	#	%
East Fraud		92	41	7	6	16	15	15	14	54	50
East Institutions	224			25		31		75		93	
West Fraud		16	14	0	0	2	2	1	1	13	12
West Institutions	112			36		20		28		28	
Total Fraud		108	32	7	6	18	17	16	15	67	62
Total Institutions	336			61		51		103		121	

The percentage of fraud indicated in the column named "Fraud" is a percent of the number of institutions surveyed. However, the percentage of fraud in all other columns is a percent of those institutions that indicated fraud exist (108).

Source: Campus Safety and Security Institute
11 Ingleside Drive
Thorndale, PA 19372
Phone: (215) 384-0737
FAX: (215) 384-1170

Attachment # 1

EXHIBIT C



A16 SUNDAY NEWS JOURNAL •• JAN. 14, 1996

Campuses ignoring law on reporting violent crimes

By JOHN HANCHETTE
Gannett News Service

WASHINGTON — College crime may shoulder its way back into congressional debates in 1996.

Six years after Congress passed the much-praised Campus Security Act to cure massive under-reporting of violent crime at American colleges and universities, the problem still is widespread.

To put it bluntly, say supporters of new legislation, the law simply is ignored by campus administrators who do not want the accompanying bad press.

"There's still a double standard in our society," said Constance Clery, who nine years ago with husband Howard founded Security on Campus to badger Congress and keep track of college crime after their daughter Jeanne was raped and murdered in her Lehigh University dorm room.

"It seems extremely unfair that records of a crime that happens off campus would be open to the public, but in many colleges — unless you're in one of seven states with tough new open police log laws — there still is nowhere students or anyone else can see what crimes are really committed on campuses," she said.

(The seven states are Massachusetts, West Virginia, Oklahoma, Tennessee, California, Pennsylvania and Minnesota.)

One problem: Congress gave the Department of Education much of the enforcement power under the 1990 act, and the cabinet agency shows little interest in following through.

Federal education officials didn't even issue compliance regulations until four years after the act, and despite a 1995 deadline for a required comprehensive report to Congress on campus crime nationwide, no such study ever was made.

David Longenecker, assistant secretary for higher education, told The New York Times last week the Campus Security Act simply isn't a priority in his office: "We have limited resources."

Prospective students and their parents considering any one of 3,200 public and private colleges and universities that receive federal funds are supposed to have access to annual campus safety reports.

The 1990 law is very specific: crime statistics for murder, rape, assault, car theft, narcotics sales and use, alcohol-related violations and even minor sex offenses and other miscreance involving violence are supposed to be kept in detail and made available.

Even threats of a crime from beyond campus walls must be logged in.

When this was widely ignored after President Bush signed the original idea into law, Congress toughened it with a 1992 amendment called the Campus Sexual Assault Victims' Bill of Rights — making colleges promote awareness of date rape, which Longenecker concedes goes widely unreported.

The addition also spelled out student victims of sexual assault have the right to not have their charges of rape downgraded, and the freedom to choose whether to attend classes with or live near the accused.

If the victim of a sexual offense asked, the college had to tell him or her what punishment the attacker received.

College administrators responded by hiding paperwork on criminal incidents in student grade reports — and then claiming student privacy rights protected the crime information from release.

So Congress passed yet another amendment three years ago that says institutions cannot hide criminal records in student educational records.

If any of these provisions are violated, federal funds can be denied. Number of times that has happened: Zero.

Some lawmakers were so upset that last year they fashioned yet another rewrite, and Sen. Orrin Hatch, R-Utah, tried to fold it into the anti-crime legislation that is part of the GOP's "Contract with America."

Hatch was rebuffed by colleagues worried the omnibus crime bill already is mired in the Senate and is threatened with veto by President Clinton if it kills his $9 billion community cops program.

So 13 House members — on a bipartisan basis — have drawn up a whole new bill called the Open Campus Police Logs Act that would put more teeth into the reporting function.

Among the sponsors are Reps. Joseph Kennedy II, D-Mass., Susan Molinari, R-N.Y., William Lipinski, D-Ill., William McCollum., R-Fla., Harry Johnston, D-Fla., and John Duncan, R-Tenn.

The bill would require that crimes on campus — or against students off-campus — must be kept in a "daily log, written in a form that can be easily understood," recording in chronological order all infractions including time, date, location, and whether an arrest has been made. All this must be "open for public inspection."

The bill has a long legislative road ahead, but supporters are expected to move it sometime this spring.

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New York Times

NEW YORK, SUNDAY, MAY 5, 1996

With Colleges Holding Court, Discretion Vies With Fairness

By NINA BERNSTEIN

OFFSTAGE JUSTICE

First of two articles.

OXFORD, Ohio — In February of last year, two rapes were reported to the police in this classic college town framed by cornfields.

A police sketch of the first rape suspect appeared on warning fliers inside the red brick residence halls of the college, Miami University of Ohio, and near local bars, where fraternities hold "grab-a-date" parties and beer costs a quarter on Wednesday nights.

The suspect in the second rape was never on a poster. But he was everywhere else, free to come and go on a campus where university officials knew his identity, but most of the women he met did not.

The first man was pursued for months by the criminal justice system, and he was eventually arrested and charged with a felony that carries up to 25 years in prison. The outcome of his case — the gunpoint rape of a student in an off-campus house — will be a matter of public record.

But the case of the second man vanished into a separate judicial world so secret that many Americans are unaware that it operates behind closed doors at most of the nation's 3,600 colleges and universities. As the man prepares to graduate from Miami University this month, not even his mother knows that he was officially placed on "student conduct probation" for sexually assaulting an 18-year-old freshman who was sleeping.

The [illegible] the Miami University [illegible] ematic of a pattern of campus injustice that emerges from confidential case files, police records, civil litigation and more than 200 interviews at a wide range of institutions, like Salem State College and Harvard in Massachusetts, Fordham University in New York and the large public universities of California, Georgia and Colorado.

At a time of crackdowns on crime and adult sentences for many juvenile offenders, campus justice is a kind of parallel judicial universe where offenses as serious as arson and rape can be disposed of discreetly under the same student conduct codes that forbid sneaking into a university dance without a ticket.

To be sure, most non-academic college discipline still involves infractions like drinking by underage students and disorderly conduct. But increasingly, systems designed to deal with youthful misbehavior are investigating and judging serious student-on-student crime. The proceedings range from elaborate trials with student judges and advocates to mediation sessions before a single administrator.

For more than 70 percent of the colleges across the United States, state laws, college charters or local governments give campus police forces full-fledged arrest power — and enormous discretion to decide whether to refer cases directly to district attorneys or

Continued on Page 16, Column 1

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Continued From Page 1

leave them to quiet campus justice.

Many serious offenses reach neither campus police officers nor their local counterparts because they are directly funneled to college judicial administrators by student resident assistants, who get free rooms or tuition discounts in exchange for serving as the enforcers of dormitory life.

Though college officials say victims are always free to seek redress in the real courts, many prosecutors complain that campus justice systems usurp and undermine such cases before they can get a crack at them.

It is a system, critics say, that is tailored to the politics of public image and the power of vested interests, from athletic departments and fraternities to the local businesses that benefit from a student culture of binge drinking. In many college-dominated towns, law enforcement agencies seem only too happy to look the other way.

College officials say campus justice is needed to create a safe educational community for students, if only because the criminal justice is too slow at getting results. But R. Keegan Federal, an Atlanta lawyer who successfully argued a 1993 Georgia Supreme Court case that opened the University of Georgia's internal judiciary system to public scrutiny, sees the patchwork of students, teachers and administrators who judge these cases as a fourth judicial branch without accountability.

"What we've got here," Mr. Federal said, "is people across the whole United States, people who are selected by a process we don't know about and sit on hearings that are secret and make decisions affecting people's lives and freedom and careers, and yet nobody knows about it. Frankly, it scares the hell out of you when you read some of these things."

A sample of cases from around the country illustrates why critics contend that confidentiality hides irreconcilable conflicts of interest.

The University of Southern Florida in Tampa. A male student kidnaps and rapes a freshman woman who has refused to testify on his behalf at a disciplinary hearing, then shoots her brother and kills himself. Despite previous complaints from three other female students that he had stalked or hit them, he had never been suspended by the campus judicial system. Two years before this incident, a state panel found, the university covered up a complaint of rape against a star basketball player, ignored the harassment that persuaded her to drop her charges and overlooked subsequent complaints of assault that three other women made against the same athlete.

Harvard University in Cambridge. A male medical student is accused of sexual assault by three female classmates, and he is also [illegible] a Senior faculty advises him to take a year off. He worked in an impoverished African country and got the most raving reviews, helping the poor," said Carola Eisenberg, the former dean of students, in confirming the facts of the 1990 case, never public until now. "Was he helped through psychiatry? I really couldn't tell. Would he do that to patients? I don't know."

University of Georgia in Athens. A 19-year-old man is found battered and unconscious in the street outside a fraternity house. An investigation by the university's fraternity advisers finds that fraternity members beat him up and held a fraternity meeting to coordinate their stories before the police came. But university administrators, overruling their own staff, threw out the conspiracy case for lack of evidence before it can be heard in a student court open to press coverage. Earlier, when student court proceedings were still secret, a man who set fire to another student's door in a gay-bashing campaign was referred directly to the university judiciary by a resident assistant, with no call to the campus police; the incident came to light only because the editor of the student newspaper happened to live on the same floor.

University of California in Santa Cruz. Several male students are found to have committed multiple sexual assaults on freshmen women. But they are allowed to transfer to other state campuses with clean records after a kind of academic plea bargaining between their lawyers and lawyers for the university. The women, who report being threatened and harassed by the accused students during the investigation, are told that they have no right to know the results of their complaints.

"What you're saying is purely anecdotal, based on some notorious kinds of cases that can become sensationalized," countered Dennis Gregory, past president of the Association for Student Judicial Affairs and associate dean of students at the University of Tennessee in Knoxville. "The large majority of the cases that are dealt with are dealt with appropriately, are dealt with professionally. Making it a public system is not the way to deal with the abuses."

Colleges have to maintain discipline on their campuses, Mr. Gregory said, or they would leave themselves open to civil liability. "We're damned if we do, and we're damned if we don't," he declared.

Typically, student victims are asked if they want to press criminal charges. But the same college personnel advising them of their options have a potentially conflicting need to protect the institution from bad publicity and liability, says Jeffrey Newman, a Boston lawyer on the board of the national nonprofit advocacy organization Security on Campus, founded by the parents of a woman who was raped and murdered by another student at Lehigh University in Bethlehem, Pa. Mr. Newman, who specializes in civil litigation on behalf of student crime victims, said that colleges actively dissuaded many from pursuing criminal prosecutions.

Even when victims do prosecute, the campus justice system is likely to conduct its own parallel proceedings. And those who skip the college disciplinary process pay a price: without it, even a grand jury's felony indictment will not necessarily persuade college officials to restrict the suspects' access to classes or dormitories.

"We're all afraid of being sued," Don Abrahamowicz, the dean of students at the University of Toledo, told fellow administrators in a candid moment at a recent conference of the 1,000-member Association for Student Judicial Affairs. Within their own world, Mr. Abrahamowicz said, administrators of campus justice are comfortable representing university interests while defending student rights and acting as "investigators, juries, judges, prosecutors, counselors — and educators, most of all." The question, he said, is "can we sell this outside of the milieu of higher education?"

The Pursuit of Justice

Victim and Accuser Before the System

In the Georgian-style residence halls of Miami University of Ohio, wing chairs and fireplaces create an aura of private gentility unusual in a public institution. Here possession of a beer by an underage student results in an automatic suspension on the third offense, as does academic dishonesty. Yet sexual assault is considered suitable for mediation or probation, as the woman who reported the second February rape last year found in a bitter lesson about campus justice.

The woman, Erin R., who asked that her last name not be published, is a sophomore now. The long fair hair she had last year is gone. She cut it off, dyed it black and shrouded her slim body in baggy clothes after seeing her assailant in her dormitory and cafeteria and confirming that the disciplinary board that had found him responsible for sexually assaulting her had not suspended him. "I don't know what it takes," she said, looking bleakly at the campus that she used to consider "this little safe place, out in the middle of nowhere."

In the official brochure of crime statistics sent to the 16,000 students here last fall, the university reported no rapes between January and June 1995. The two rapes reported to police that February were not counted because the incidents occurred in off-campus housing, only blocks from the campus borders. Nor did the brochure refer to 31 rapes between January and August 1995 on a separate university list. Many of these rapes, all involving the university or its students, were not reported to the campus police but were reported to a variety of university agencies, hospitals and community counseling centers.

Last April, in a small room in an administration building, Erin told two students and two professors on a disciplinary board panel what she had already told campus and city police: how she had fallen asleep in her clothes on her stomach after a drinking party at an off-campus house and had awakened to find the host, a 190-pound wrestler who she barely knew, pinning her down and penetrating her from behind. A male friend from her dormitory who was asleep beside her woke up to her cries and witnessed the scene. The evidence included a handwritten letter of apology that the accused, pleading "I can't believe what I did," the two-page letter by the accused student, Aaron Grossman, reads in part. "Although I hurt you very seriously, I pray to you that you won't destroy my life. My Mom used to work at the Rape Crisis Center in Cleveland & I have seen many women scarred by men doing the things that I guess now that I've done. I realized then as I do now the effects that rape has on a woman & would never knowing want to hurt someone like that. I know you'll never forgive me for this, & I understand why."

Mr. Grossman said at the hearing — and maintained in an interview in March — that he had been confused and scared when he wrote the letter and that he had since remembered that the sex had been entirely consensual.

The Oxford police say they strongly encouraged Erin to press criminal charges. "Like we told her — you've got a conviction here," Lieut. Richard McVey said in an interview at the small station house where he has kept the original letter of apology. But Erin says a five-minute interview with an impatient and hostile assistant prosecutor dissuaded her from that course.

John Holcomb, the Butler County prosecutor for 33 years, said he could not recall an acquaintance-rape case prosecuted by his office recently, let alone a conviction when the woman had been drinking. He reminisced about the days when women students had 10 P.M. curfews, and he explained that if a woman was intoxicated and voluntarily stayed in a young man's place late at night, "most people would ask themselves, 'Well, what did she think was going to happen?'"

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Erin turned to campus justice, but it was not easy to be heard. At one point, she said, Susan Vaughn, the university's judicial affairs coordinator, suggested that the case be handled through mediation as "a misunderstanding" instead of in a disciplinary hearing.

Though neither Ms. Vaughn nor James Stager, the dean of student affairs, would discuss this case, Mr. Stager acknowledged that they considered mediation a suitable way to deal with a student sexual assault case if the victim agrees.

But Erin did not agree. She said Ms. Vaughn had told her, "'You need to understand that even if we do find him responsible, he may not be suspended.' I heard her say that, but I didn't think she really meant that would happen."

At the hearing, the disciplinary board sat at one end of a conference table, with the accuser and the accused on the other. Erin was flanked by two companions: her 26-year-old sister and Cameron Peebles, an 18-year-old male friend. Mr. Grossman, 22, brought a wrestling teammate.

At some colleges, the accused can bring in a room full of friends for support if he wishes, and he can be represented by a lawyer, while the complainant, as a witness, has no right to an advocate. At other places, both have a right to counsel, but the lawyers can only prompt their clients, not speak themselves. Some systems have student prosecutors and assign each participant a student advocate or staff, and some have a staff member at each presentation. Here Ms. Vaughn and Mr. Stager only listened.

At the hearing, "Erin was very emotional and constantly crying," her 26-year-old sister recalled.

Mr. Peebles said that Mr. Grossman "came across like he didn't take it seriously — like he wanted to, like 'why am I here?'"

When Mr. Grossman was asked to repeat his account in a recent telephone interview, he said: "Whatever you've heard is what I said. It was more than a year ago. There was no evidence."

And the apology? "If anything, I lied in the letter," he said.

The panel deliberated for about 30 minutes after a four-hour hearing, then announced that they were holding Mr. Grossman responsible for violating Section 101 of the student code, entitled "Physical or Psychological Abuse of Others," specifically paragraph A, "Sexual Assault."

But the next day, when Erin asked to know Mr. Grossman's punishment, the judicial affairs coordinator refused to tell her, records confirm, claiming that the Federal Educational Records and Privacy Act forbade disclosure.

In fact, a 1992 amendment to the act explicitly gives victims of sexual assault a right to know, and an older exemption allows the release of information about the accused perpetrators of violent crime. Both provisions [illegible] survey, 41 percent [illegible] saying said they did not tell [illegible]

After Erin's father protested, she did get official notification in a letter dated June 20.

The sanction imposed by the Disciplinary Board was that Aaron be placed on Student Conduct Probation for as long as he remains a student at Miami University. That meant if Mr. Grossman was found responsible for any other serious violation before graduation, he would be suspended.

The Police Chief, Steven Schwein, called it "a slap on the wrist."

In Defense of Discretion

College Administrators Often Overlook Police

Defenders of campus justice say that at its best, it offers students swift, sensitive and private resolutions that would not be available from prosecutors and juries. "Is a jury as well trained as my judicial board?" asked Lee Bird, who directs the judicial program at tiny St. Cloud State College in St. Cloud, Minn., which won a national award last year for its unusually victim-friendly process. "I don't think so. I don't allow people to be badgered. There's no yelling, screaming, objecting."

On the other side, prosecutors and police officers cite campus proceedings that have damaged or destroyed viable cases. At Salem State College, a recent student rape trial ran for 11 hours, until 1 A.M., with no rules of evidence, and produced a tape recording that the local prosecutor had to study word by word because the criminal case could be dismissed if she withheld anything exculpatory from the grand jury. It declined to indict.

The illusion that campuses are self-contained communities often keeps administrators from even thinking of referring cases to the criminal justice system.

In the case of the Harvard Medical School student accused of forcing unwanted sexual acts on several classmates, for example, Dr. Eisenberg, the former dean of students, seemed astonished when she was asked if criminal charges had ever been considered. She had already described the student as "any mother's dream": a handsome, bright, violin-playing Ivy League graduate.

"Oh, no, absolutely not," she said. "This was an in-house sort of an accusation. The only reason we consulted the lawyers is that if the committee had decided to expel him, we would have had a suit on our hands in no time."

Exactly, said Marie Simon, a lawyer who brought a class-action law suit on behalf of the women in the University of California at Santa Cruz case. "They're concerned about who has the juice," she said. "If they expel someone lately, they might get involved in a lawsuit. Until we brought the complaint, they had no inkling that the women had that kind of clout."

At Santa Cruz, the university's judicial administrator even threatened one victim that her assailant's punishment would be nullified if she told anyone about it, according to a 1994 investigation by the Department of Education's Office of Civil Rights. The six-month investigation examined 92 complaints of sexual harassment and sexual assault at the Santa Cruz campus made over a two-year period and found that the handling of such complaints was so lenient and biased toward the accused men that it had created a discriminatory environment for all women on campus.

The university adopted new policies, including a system of coded transcripts that alert other state campuses to a student's disciplinary history. But few other institutions have followed suit.

"You could be a serial rapist here, and it wouldn't show up on your transcript," Dennis Dunham, the vice president for student affairs at the University of Pittsburgh, said recently. "A transcript is considered practically sacrosanct, like a holy document."

A Case's Aftermath

For Some Onlookers, Shock or Satisfaction

Campus justice in Erin's case taught some more than others.

Mr. Peebles, Erin's friend at the hearing, was especially shocked by the result. Three days after the hearing, he himself was automatically suspended for a semester for possessing a beer while underage. "The irony was so thick," he said.

Mr. Stager, the dean of students, would not talk about either case. "I certainly am satisfied with the way we're handling things here," he said. "I wasn't born and bred to be a disciplinarian. I just want a system that is fair."

Mr. Grossman seemed to shrug off the verdict. "I was found responsible, but I was allowed to continue on," he said. "You don't have to be totally guilty to be responsible."

Asked his mother's reaction to the episode, he showed his first sign of concern. "She doesn't know," he said. "I never told her."

Meanwhile, the police sketch of the gunpoint rapist is gone from the uptown taverns. Erin's sorority recently threw a "crush" party at one bar. After making sure that Aaron Grossman's name was not on the invitation list, Erin went to the party, but she left early. Later, she learned, he showed up anyway.

NEXT: At the heart of the campus justice system is a protected place for university fraternities.

The New York Times - Mar. 5, 1996

Years Later, Fordham Case Still Haunts Woman

By NINA BERNSTEIN

It has been six years since Karen Schmidt took what she calls "a trip through Fordham's judicial hell," but the memories still torment her.

She was a junior at Fordham University in the Bronx that January in 1990, a confident young woman who had founded the Jesuit school's first dance team and she was talking and drinking beer with two male students in her dormitory room past 3 A.M. Suddenly, she said, one of the men, a football player twice her size whom she considered a friend, pinned her and proposed a sexual threesome. She went from disbelief to desperation, telling him to stop, struggling and crying hysterically when he penetrated her as the other man prepared to join in.

The dormitory's resident assistant first took the matter to the dean of students, after another female student said that the football player had raped her, too. The dean, Henry Toutaine, brought disciplinary charges against the two men. But under pressure from the athlete's friends, Ms. Schmidt said, the other woman withdrew her complaint. It would be Ms. Schmidt's word alone against the men's word that the sex had been consensual. In Fordham's in-house judicial system, the dean himself was the investigator, judge, and jury.

The dean heard from different students. But he had no subpoena power and none of the investigative tools of law enforcement.

Meanwhile, Ms. Schmidt said, she became an outcast and a target of harassment by the accused and their friends — with obscenities shouted in public places, food thrown at her in the cafeteria and banging at her dormitory door in the night.

On the morning of April 3, 1990, she said, the dean telephoned her to say he had decided that he could not prove anything either way and that the charges against the men would be dropped. She said he had also told her that the men were threatening to sue the school if disciplinary action was taken against them.

She left school the same day. "I was faced with this betrayal by a huge institution which is supposed to stand for what is right," Ms. Schmidt said.

The people involved are no longer at Fordham. Mariellen Gallagher, a university spokeswoman, said that now, an administrator would stand by the student. "I can't say whether the outcome would be any different today," she said. "But Ms. Schmidt might have felt more support."

Mr. Toutaine, who directs judicial programs at Gustavus Adolphus College in St. Peter, Minn., said he could not recall specifics and was constrained by confidentiality.

"I personally believe that campus judicial systems attempt to do the right thing," he said. "Do I think my judgment is perfect? No."

Ms. Schmidt filed a police report that summer, she said, but she was advised to put the incident behind her.

Now a radio disk jockey near Washington, she went through years of depression until confronting the events at Fordham in therapy. She said she wanted her name used in this story to show how far she had come.

The New York Times - May 6, 1996

Behind Some Fraternity Walls, Brothers in Crime

By NINA BERNSTEIN

OFFSTAGE JUSTICE

Second of two articles

ATHENS, Ga. — No one was supposed to know that John Higdon almost died that night three years ago — not the national office of the fraternity that nearly killed him, not the University of Georgia, where he was a student, not his parents, and certainly not the public.

But after a hazing ritual left the 19-year-old pledge too drunk to breathe, a nurse who had helped save his life broke hospital rules and called his mother. Four days later, a Georgia Supreme Court ruling opened the university's secret student court to public scrutiny. And within weeks, what would have been a closed-door disciplinary hearing about the near-fatal incident was thrown into the public spotlight.

The case remains a rare window on a secret within a secret: the protected place that fraternities occupy at the heart of a campus justice system that operates at most of the nation's 3,600 colleges and universities. Behind those closed doors, thousands of criminal offenses virtually disappear each academic year.

At the student court hearing in Georgia, it emerged that Mr. Higdon, a tall, thin young man, had been made to drink a fifth of Heaven's Hill whisky in 45 minutes. An off-duty security guard intervened to get the sophomore to the hospital before he could die of alcohol poisoning, and doctors had to put him on a respirator to resuscitate him. So no one else would know, a fraternity brother put the hospital charges on his personal credit card, expecting to be discreetly reimbursed by Sigma Phi Epsilon.

The fraternity men had every reason to believe that they could keep the case quiet and the consequences minor. Sigma Phi Epsilon had been on some form of probation or social suspension at the University of Georgia for six of the previous seven years. Its violations had been handled through the campus justice system and its history of hazing —

Continued on Page B8, Column 1

Continued From Page A1

which is illegal in Georgia and 38 other states — had never been mentioned in the glossy brochures the university sent incoming freshmen to promote fraternity membership.

To be sure, fraternities are not the only groups with special status in the closed world of campus justice that emerges from an examination of confidential case files, police records, civil litigation and more than 200 interviews at colleges around the country. But the treatment of fraternities most clearly reveals the fault lines of a system where panels of students, teachers and administrators judge serious offenses without public accountability.

With 400,000 members at 800 campuses nationwide — more than double the number at the low point in 1971 — fraternities now spend a third of their budgets, or some $30 million a year, to pay liability costs, national fraternity executives say. The vast majority of claims are settled out of court and never become public, and there is no record of the number paid each year. But an insurance analysis of more than 500 claims against fraternities in a six-year period reveals that one out of four resulted from a death, paralysis or a serious injury.

That analysis, produced by Harris & Harris of Kentucky Inc., an insurance brokerage, as a tool to teach fraternities risk management, found that alcohol had been an important factor in more than 80 percent of most types of claims, including claims for sexual assaults, fights and falls from the roofs of fraternity houses.

Research by Harvard and Columbia Universities shows that 90 percent of all violent crime on campuses around the country is alcohol-related, and it documents the destructive secondhand effects of alcohol abuse on other students, especially at colleges with a high prevalence of binge drinking. Studies also confirm what many college administrators know: fraternity members are the students most likely to engage in binge drinking.

Yet many of the same institutions now waging educational campaigns against alcohol abuse and student violence continue to handle fraternity crimes with all the leniency and discretion a closed-door system of justice can afford.

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Where fraternities are strong, they are often disciplined in courts of their own or in student-organization courts, responsible to the same university administrators who promote Greek life. Fraternity codes of silence, demands for group loyalty and opportunities for group retaliation often frustrate investigators and intimidate witnesses, critics say. And when student courts do mete out significant penalties, a fraternity appeal to the administration — bolstered by fraternity alumni — often results in the sanction being reduced or overturned.

"They'd be crazy not to appeal," said Claudia Schamp, who directs the Office of Greek Life at the University of Georgia. "We run around here like Keystone cops trying to figure out the facts — you almost have to be a [illegible] officer and lawyer to get at the truth — and then we get the rug pulled out from underneath us. It's very, very frustrating."

All elements of a campus justice system, including the campus police, ultimately answer to top college administrators. Seventy percent of campus police departments have full arrest power, giving them great discretion to send cases straight to the district attorney or to keep them in-house for proceedings that range from elaborate trials before student justices to mediation by a single administrator. Most of the offenses handled by such systems involve infractions like drinking by underage students. But increasingly at colleges across the country, administrators say, they make use of student conduct codes to judge student crimes as serious as assault and arson.

William R. Bracewell, who presides over one of the most elaborate student judiciaries in the country as director of judicial programs here at the University of Georgia, denies that fraternities are favored. In fact, he said, fraternities on campus "perceive us as very anti-Greek." But he proudly proclaims his own fraternity ties, acquired as a late initiate because he could not afford to join when he was a student. He said he had served on his fraternity's national board and in the national conference that represents 60 American fraternities with 5,500 college chapters.

Like other supporters of fraternities, Mr. Bracewell said the problems of a few were too often used to discredit a system that offers lifelong friendships and personal growth to the vast majority of its members.

Mr. Bracewell makes no secret of his loathing for the Georgia Supreme Court decision in The Red and Black v. Board of Regents, which opened the door to the coverage of student court hearings here — in theory. In practice, the newspaper publisher, Harry Montevideo, complains, the university has done everything to frustrate coverage, from scheduling fraternity cases late at night to charging up to $80 a case in copying fees.

"I am an educator," Mr. Bracewell declared, looking very much at home on a campus where the Corinthian columns are three stories high and incoming male freshmen are asked their grandfather's fraternity. "I am not part of the criminal justice system. I am not a prosecutor. I've been pushed into a role that I am most uncomfortable with."

On Fraternity Row

Patterns of Crime Called 'Frightening'

The center of gravity of fraternity life at the University of Georgia is a few blocks off campus on South Milledge Avenue, where antebellum-style houses sport Greek letters above white-columned verandas. The campus police have no jurisdiction here, and the local police tread gently.

In the last academic year, when two unrelated rapes were reported at one fraternity on this tree-shaded street, the Athens-Clarke County police refused for weeks to reveal the name of the fraternity, Beta Theta Pi. No charges were ever filed.

The university's official crime statistics brochure, "Safe & Secure," lists no rapes in 1994. But just down the avenue in a plain brick office building, the nonprofit advocacy organization Safe Campuses Now has a different set of numbers. In an unpublished survey of 916 sorority women and 240 fraternity men conducted at their houses one night this year, 79 of the women, or 8.6 percent, said they had been the victims of acquaintance or date rapes, and 5 percent of the men — 12 of them — said that they had committed such rapes.

The survey, conducted by Michael Porter, a graduate student in psychology, showed even higher percentages when the question was more oblique: nearly 11 percent of the men, who were surveyed anonymously, agreed with the statement "I have continued sexual activity even after my partner said no," and 18.8 percent said they had engaged in sex with someone they felt was reluctant.

"It's scary how many sexual-assault cases come from fraternity parties that people will never know about," said Ruth Anne Sourskar, who served simultaneously as an advocate in the student judiciary and as a counselor at the local rape crisis center, where she saw many student victims. "It's frightening, and you can't say anything. You know certain ones are bad, and you can't go to the sorority and say, 'You really shouldn't have socials with them.'"

For nine fraternities on South Milledge alone, police computer records show 43 incident reports between October 1994 and the end of 1995, including reports of a rape, a battery and five burglaries. None was counted in the official university crime statistics, published to comply with the 1990 Federal Right to Know and Campus Security Act. The law requires colleges to report crimes that occur at recognized student organizations off campus as well as on campus, but that provision is widely ignored. And off-campus fraternities exist in the middle of the blind spot.

The Response

Colleges Buffeted By Many Pressures

Prosecution seems outside the mainstream of university life, explained E. T. Joe Buchanan, a veteran dean and a lawyer, who recently told a plenary session of the 1,000-member Association for Student Judicial Affairs that the secret to long service in a large public land-grant institution was "never messing with athletics or fraternities."

The same fraternities often dominate undergraduate social life and the ranks of alumni donors. Alumni who belonged to fraternities or sororities are up to three times as likely to donate to their colleges, a University of Indiana study found. In an era of uncertain job prospects for college graduates, fraternities seem to offer added value: useful connections in the real world, more attractive or affordable housing than in the dormitories and the aura of fun demanded of colleges that promote themselves like cruise lines.

But social tolerance is decreasing for what Mr. Buchanan, a past national board member of Lambda Chi, described in an interview as "the big three" — hazing, alcohol abuse and sexual assault — and bad publicity and legal liability are making colleges skittish about the trade-offs. Some institutions, like the University of Maryland, have responded to fraternity scandals with ambitious programs to set and enforce standards.

Others, like the University of Virginia and the University of Colorado at Boulder, have chosen an arm's length relationship, leaving the fraternity problem to local prosecutors. Technically, that does not protect fraternities, said Mr. Buchanan, now the dean of Tidewater Community College in Virginia Beach and a past president of the American College Personnel Association.

"But as a practical matter," Mr. Buchanan said, "whoever is the prosecutor in that county probably graduated from that institution, and probably was on the student judiciary and a member of one of the three or four most prestigious fraternities on the campus. And he can say, 'We have serious crime in this county — why should we prosecute students?'"

Both institutional approaches often lead to campus lessons in cynicism. At Miami University of Ohio, for example, when a scandal related to hazing and alcohol rocked the Sigma Chi fraternity two years ago, students saw the fraternity's three-year disciplinary suspension abruptly reduced — without any formal appeal proceedings — to the equivalent of two semesters.

"It's all about alumni status and their ability to mobilize funds," said Emily Hebert, now an editor at The Miami Student newspaper, who was a freshman at the time. "For two days, there was an influx of Mercedes-Benzes, lawyers and doctors with Sigma Chi bumper stickers on their cars."

While students were kept in ignorance of the details of the case, the accounts that circulated served as a powerful deterrent against future whistle-blowing. "One of the pledges turned them in, so they beat him up, hosed him down and made him eat hallucinogenic mushrooms," said Michael Sommers, who sits on the student court of appeals and also writes for the student newspaper. "He left the campus and it was never made public."

Brian Brumfield, the head of the Office of Greek Life at Miami University of Ohio, was dismissive of such stories but will still provide no specifics. He did say, "The rumor that there were the big Mercedes and payoffs, that did not happen." The fraternity's national board "closed house" at the local chapter, he said, expelling most members from the fraternity and choosing about 10 to rebuild it.

Criminal prosecution was considered, he added, but in Ohio, where hazing is a fourth-degree misdemeanor, "the support you're going to find from the local law enforcement is pretty minimal." In an interview, John Holcomb, the longtime local prosecutor, was quick to acknowledge his own fraternity ties with the cry "I'm an A.T.O., the great big hairy-chested man."

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At the University of Colorado at Boulder, where the student activities center is named for the Coors Brewing Company, administrators maintain that they have no control over off-campus Greek organizations even though they provide them with a campus center and a staff of adviser-advocates.

As 18-year-old pledge once stumbled out of the off-campus Delta Tau Delta fraternity into the arms of an administrator from the University of Colorado police department, located next door. While fraternity members shouted from the front porch not to say anything, the pledge passed out and had to be rushed to the hospital with alcohol poisoning.

He had been forced to drink shots of vodka every time he made a mistake in a game of fraternity trivia. The campus police declined to bring charges.

In 1986, it was a 19-year-old Pi Kappa Alpha pledge who had to go to the hospital when the University of Colorado police found him vomiting and barely conscious in a dormitory room after a "Big Brother Week" ritual. In the same semester, an 18-year-old freshman, Amanda MacDonald, died after a drunken fraternity man lost control of a car on which she and others were "roof surfing" after a fraternity drinking party. Tighter drinking policies were announced.

But the following fall, an intoxicated 19-year-old woman at a Delta Sigma Chi party was physically forced into a bedroom and raped repeatedly by a fraternity member and his guest.

"We'd see that every year," Mary Keenan, an assistant prosecutor with the Boulder County District Attorney's Office, said of gang rapes at the fraternities' fall drinking parties. "One girl becomes so intoxicated she's not ambulatory. They put her in a room, turn out the lights, and she's being raped in the dark and she has no idea who's doing it.

"Oh, and the brotherhood is amazing," she added. "I tried to interview witnesses in connection with this case, guys who had seen the victim curled up in a ball, crying in the hall. It was like this code of secrecy. Their allegiance to their fraternity was much stronger than their allegiance to the truth."

What made the case unusual were the guilty pleas Ms. Keenan got. One man, Justin [illegible], was sentenced to five years in prison [illegible]ear, while the other, Daniel Clark, got [illegible]ys in the Boulder County jail and a three-year deferred prison sentence. The case helped prompt a campaign by the police and the Boulder community called "Enough Is Enough," which made fraternities a target last year in a crackdown on drinking by underage students. Some 2,300 summonses were issued in the police raids, leading to some $21,000 in fines per fraternity party. The fraternities formally capitulated after three months, declaring that alcohol would no longer be served at any fraternity house. For the first time in memory, Ms. Keenan said, no fraternity party rapes were reported last fall.

The measures taken by the Boulder police included warning the parents of incoming freshmen as well as insurance carriers about the fraternities in violation of alcohol laws, which highlights what is not being done elsewhere by campus police and college judicial programs.

A Spotlight

Student Records At Heart of Struggle

In John Higdon's case at the University of Georgia, the student organizations court found Sigma Phi Epsilon guilty on six counts of hazing, alcohol misuse and disorderly conduct and sentenced the fraternity to five years' full suspension.

The fraternity, shocked at being disbanded, fully expected Charles B. Knapp, the university president, to reduce the sanction on appeal, as he had done in many other cases. But this time, he let the punishment stand.

In Red and Black v. Board of Regents, the Georgia Supreme Court wrote: "We are mindful that openness in sensitive proceedings is sometimes unpleasant, difficult and occasionally harmful. Nevertheless, the policy of this state is that the public's business must be open, not only to protect against potential abuse but also to maintain the public's confidence in its officials."

The ruling declared that nonacademic disciplinary records were not educational in the meaning of the Federal Educational Rights and Privacy Act. But last year, after intense lobbying by college officials around the country, the Department of Education came down on the other side: disciplinary records are educational, the department ruled, unless Congress says otherwise.

There has been neither a criminal prosecution nor a civil suit in Mr. Higdon's case. As is typical in hazing cases, he blamed himself at first and still hoped to join the fraternity. He asked for his mother's silence. Now they both believe that the public attention made the sanction stick.

"He was essentially as close to death as it is possible to be," said his mother, Laura Lee Ashley, who is herself a nurse. "I explained to John that I did not want that to ever happen to another mother's or father's child."

June 3, 1996

Ms. Carolyn Carlson
Society of Professional Journalists
Campus Courts Task Force
RE: Congressional Review of FERPA and the Buckley Amendment

I was asked to write this letter describing my experiences with Miami University (Oxford, Ohio) over the last year as editor-in-chief of the student newspaper trying to gain access to University disciplinary records. In May 1995, I began building a database of university crime statistics to more thoroughly and accurately report campus crime and punishment. In essence, *The Miami Student* newspaper wanted to expand its police beat. During the summer of 1995, I worked with officials in the Office of Judicial Affairs to determine the most efficient and accurate method to report on the campus justice system. From the beginning, I emphasized I was ***not interested in the identities of individual students***. The reporting was for statistical and pattern-tracing purposes only. In September 1995, the scheduled time to begin collecting information, I was informed university officials had discussed my project and decided they would not cooperate for fear of violating the Family Education Rights and Privacy Act and the Buckley Amendment. I was denied access to nearly everything I had requested.

Since that time, I have been working arduously to break open the campus justice system. FERPA and the Buckley Amendment as they are currently interpreted are fundamentally flawed. Campus Courts are the only places left in the United States that hold private trials. As the law stands now, university justice officials are held accountable to no one. Students have a right to know how their universities deal with crime on campus. They have a right to know that justice is secured and punishments are not capricious. They have a right to know and understand the system they may one day face. They have a right to be aware of safety on their own campus.

FERPA and the Buckley Amendment serve only to shield universities from disclosing unflattering facts about their institution and allow ambiguity in what reporting is allowed. I have never come across more conflicting statistics regarding federal campus crime reporting as I have while researching this project. There simply is no uniform method of reporting which is directly attributable to the loose definitions of crime from school to school. For example, Miami University has reported five rapes since January 1992 in its federal crime reports required by the 1991 Campus Securities Act. Another university-generated report, however, published 119 rapes between August 1990-May 1995. Definitions and descriptions of what constitutes a crime are to blame for the discrepancies in numbers. As a result, potential students and their parents evaluating the safety of a campus are cheated an accurate profile of institutions. Students enrolled in universities are instilled with a false sense of security.

Congress has a responsibility to address these issues immediately. *The Miami Student* and countless student newspapers across the country are being denied access to records that should be public information. Reporting methods for all universities must be synchronized. The Department of Education has made a gross error by including criminal matters dealt within universities as "educational records" within the Buckley Amendment and FERPA. The protection of academic conduct is not the issue, protecting serious criminal conduct is.

Please feel free to contact me if you have any questions.

Sincerely,

Jennifer Eileen Markiewicz

Jennifer Eileen Markiewicz
Miami University, Oxford, Ohio

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EXHIBIT D

CAMPUS CRIME

Looking for Loopholes

Schools continue to avoid recording and releasing campus crime statistics despite recent legislation requiring such information

WASHINGTON, D.C. — Craig Austin was shot and killed after a fight broke out at the Blackburn Activities Center on the Howard University Campus last October. After a 60-foot run, Austin collapsed on the pavement of a turn-around drive that separates campus buildings.

A tape measure indicated that Austin died beyond the university's property line. Thus the university classified the murder as a crime on city property.

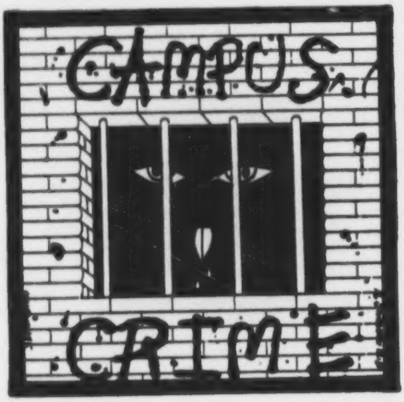
This crime as well as hundreds of others committed by and against college students across the country will not be listed in the 1992-93 campus crime statistics that schools are required to report under the 1990 Student Right to Know and Campus Security Act.

Although the act requires schools that receive federal funding to release statistics about campus crimes upon request, many have found loopholes.

The off-campus Howard University incident pinpoints just one tactic schools have been reported to use to avoid recording crimes in their reports.

William Whitman, director of the Campus Safety and Security Institute, a consulting firm on campus security issues, said that by comparing national crime rates to the low statistics released by schools in September 1992, it is obvious that some schools are covering up.

For example, statistics from a 1991 study of sexual assault victims conducted by the institute indicated that one in four people surveyed said they were a victim of sexual assault during the five-year college-age bracket, Whitman said.



Campus crime statistics released by 2,400 U.S. colleges and universities and compiled by the *Chronicle of Higher Education* reported only about 1,000 cases of rape on campuses in the September 1992 report.

Even schools that report half of the estimated amount of rape incidents are reporting a significant number, but not coming close to the true number, Whitman said. In fact, few schools reported more than 10 rape incidents on their campuses.

Whitman added that sexual assault statistics tend not to vary geographically or socioeconomically as crimes such as theft and arson do, and that many schools reporting zero or one rape are either hiding crimes or ignoring them.

Although rape incidents often go unreported, some campus administrators have been known to tell campus security officers specifically not to report underage drinking violations to avoid high statistics as well, Whitman said. The officers have been instructed to pour the alcohol out but not issue a citation.

Some schools choosing to ignore crimes avoid having to report them by not implementing crime awareness organizations with the idea that if you do not look for problems you will not find them.

The Student Right to Know and Campus Security Act of 1990 requires that all schools receiving federal funding make campus crime statistics available upon request. The law specifically states that the number of incidents occurring on campus of murder, rape, robbery, aggravated as

(See LOOPHOLES, page .

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CAMPUS CRIME

Richmond Paper Denied Access

Court rules private school's police force not subject to state FOI law, but says paper has 'persuasive argument' that access is important

VIRGINIA — A state court ruling in February held that campus police at the University of Richmond are not required to disclose the names of students who commit crimes under Virginia's freedom of information laws.

In *Hanks v. University of Richmond*, No. HD-87-3 (Cir. Court Richmond Feb. 18, 1993), the first case in the nation involving access to campus police records at a private institution, Judge T.J. Markow decided that the campus police department is not a "public body" supported by "public funds" and therefore is not subject to Virginia Freedom of Information Act provisions.

Douglass Hanks III, editor of the University of Richmond's student newspaper, *The Collegian* , filed the suit in February when the school began a policy of withholding the names of students who commit crimes.

The campus police department changed its policy of releasing names after the student government objected to seeing students' names in print for "embarrassing" crimes such as alcohol violations.

The university argued that such records are available through the Richmond city and Henrico county police departments once the school files them.

Hanks said in his statement to the court that disclosure of this information is necessary to ensure the safety of the community, "to measure the need for new safety measures and to monitor the performance of the law enforcement agency serving the community."

Judge Markow said in his decision that although Hanks had a persuasive argument in saying that the school is exercising public powers and that the information he seeks is consistent with the public interest, Markow said that applying those reasons to this case would have required the court to change the law rather than interpret it.

A 1991 ruling said that schools could not justify withholding the names of students charged with campus crimes under the federal Family Educational Rights and Privacy Act, commonly referred to as the Buckley Amendment, but left further action up to the states. Most state's existing open records laws apply to campus police agencies at public schools, but California and Massachusetts are currently the only states to have enacted laws opening campus crime logs at both public and private institutions.

Although the University of Richmond police department is an official police agency, its employees are paid by the private university which exempts it from complying with the requirements of Virginia law.

Alice Lucan, *The Collegian*'s attorney, said no decision has yet been made whether to appeal the case ■

Loopholes

(Continued from page 9)

sault, burglary and motor vehicle theft and arrests for alcohol and drug abuse and weapon possession reported to "campus security authorities or local police agencies" be released each year.

Since the law requires the release of crimes reported to "campus security authorities," some schools have gone as far as to change the titles of university staff to whom victims report crimes. Now their titles include the word "counselor" to avoid having to report such crimes as sexual assault, Whitman said.

These campus police departments encourage rape victims to get help from a counselor or a resident adviser of their dorm—neither of whom are required to collect statistics—instead of reporting the incident to the police, he said.

Some schools disagree with the requirements in releasing statistics, but many are simply not aware of the law, especially those schools without campus police departments, Whitman added.

A number of schools do, however, report accurate crime statistics. Large state schools such as the University of Pennsylvania and the University of Vermont have been commended for their honesty, Whitman said.

"It is a source of frustration for schools trying to report accurately," Whitman said. "It looks like schools with higher rates are hotbeds of crime, but in reality they have really accurate reporting."

Jennifer Bresnahan, editor of the *Cynic* at the University of Vermont, said that although her school's high statistics appear more accurate than [illegible] school's statistics, the numbers should be even higher. She also said that [illegible] women are referred to an off-campus women's crisis center instead of reporting the crime to campus police ■

CAMPUS CRIME

Access right rejected

Proposed legislation could diminish impact of federal court ruling for Bemidji State Univ.

MINNESOTA — A federal court ruled in April that the First Amendment provides no right of access to campus crime reports because "there is no historical tradition of access to ... incident and response reports generated by educational institutions."

The decision in *Studelska v. Duly*, No. 3-92 CIV 302 (D. Minn., April 23, 1993), appears to be the first in the country to allow a public college or university to deny access to campus police reports.

The case was filed in May 1992 by Jana Studelska, a reporter for the *Northern Student* at Bemidji State University. Studelska sought access to incident reports and logs maintained by the campus security department, claiming she was entitled to the information under the state open records law and the First and Fourteenth Amendments. She filed her lawsuit after she discovered that the weekly summary of incidents occurring on campus that the security department provided her was "sanitized" and that some violent crimes were left off altogether.

In dismissing Studelska's claims, Judge Donald D. Alsop agreed that the First Amendment did provide some limited right of access to government records. But his decision said that when a court is confronted with a claim to such a right, it must first determine whether the information sought has "historically been open to the press and the general public."

To answer that question, the court said it had to determine whether there was a historical tradition of access to the crime reports of educational institutions, not the reports of police agencies as a whole.

Because the security department at Bemidji State did not have the authority to make arrests, the court found little historical basis for public access to the reports in question. The decision indicated that arrest reports of a campus police agency would have to be open under the First Amendment.

The court also rejected Studelska's claim that denial of access to the records in question violated her equal protection rights under the Fourteenth Amendment because similar information collected off-campus by local police was available to the public.

The court left open the possibility that Studelska might have a right of access to the campus crime reports under the state open records law. Because the issue involved a question of state law, the federal court declined to rule on it.

Studelska said she was disappointed in the decision.

"[The judge] could have done a lot of good for a lot of people by being a little more courageous in his ruling," she said.

But Studelska has hope that the war for campus crime information may been won in another forum — the state legislature. State Sen. Jane Ranum, D-Minneapolis, has introduced a bill that would change state law to require schools to open their security records. The bill currently is awaiting action on the floor of the senate.

Studelska says she and her attorneys at the Minneapolis law firm of Faegre and Benson have not yet decided whether they will appeal the decision. The firm donated its services in the case.

Community college paper goes to court for crime info

PENNSYLVANIA — Editors of *The Student Vanguard* newspaper at the Community College of Philadelphia decided that they had negotiated with the school long enough in their battle for access to campus crime reports. In April, they filed a claim with the Philadelphia Court of Common Pleas for access to incident reports, police blotters and other information they believe they are entitled to under the Pennsylvania Right to Know Act.

The controversy began in 1991 when the *Vanguard*'s then editor, William Cunnane, decided the school was not providing sufficient or accurate information about campus crime in the weekly summaries it prepared. The paper began asking for more detailed information about campus crime and enlisted the assistance of the SPLC and attorneys at the Philadelphia law firm of Schnader, Harrison, Segal & Lewis.

After months of correspondence between the attorneys for the students and the school, after which the school continued to maintain that it was not obligated to provide detailed crime information, the newspaper staff decided it was time to go to court. On April 12, current Editor Janell Brown and Managing Editor Angelita Hogan, former editor Cunnane filed a formal notice of appeal from a denial of access to public information from a local public agency with the county court.

"I believe campus security is inadequate," Brown said. "Readers need this information to protect themselves from crime."

A court hearing has been set for August 19.■

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The Philadelphia Inquirer

Metro

A missing millionaire's brother seeks to have him declared dead. **B3.**

Weather, B8.

Section B

Area Votes in Congress 1
News in Brief 1
The Scene 1

Sunday, April 25, 1993

Student newspaper challenges the CCP administration

By Howard Goodman
INQUIRER STAFF WRITER

The Student Vanguard is a pesky little weekly.

For the last couple of years, its part-time staff of student reporters and editors has been aggressively breaking stories about crime and breaches of security at the Community College of Philadelphia:

Professor Bludgeoned in Classroom, Guards Take 20 Minutes To Respond.

Master Key Stolen, All Student Lockers At Risk.

Security Guard Fired, Said Caught With $30,000 in Stolen College Equipment.

Biotoxic Wastes Fester in Storeroom for 7 Months.

College officials are prone to complain about the paper's accuracy. But wait a minute, say the students: We ask administrators for comment, but they refuse to talk.

The Vanguard has been trying to gain the right to look at campus security logs and daily records — as many other student newspapers already are. The staff contends that the 14-acre campus at 16th and Spring Garden Streets isn't as safe as administrators say.

"We feel it's necessary to give out the information to our readership so they can protect themselves," said editor-in-chief Janell D. Brown.

The administration has refused.

"We basically feel that the rights of individuals and campus security procedures would be seriously compromised if we gave this information out — especially given the less-than-full confidence we have in the student newspaper," said Thomas Hawk, vice president for finance and planning, who oversees security.

So the students have gone to court.

On April 12, the Vanguard (circulation 3,600) filed suit in Philadelphia Common Pleas Court against the college and two top administrators to try to pry loose campus security reports. The suit alleges violations of the state's Public Documents Law. A hearing is scheduled for Aug. 19.

The lawsuit is one of a handful that student newspapers in pursuit of crime information have filed against

See NEWSPAPER on B2

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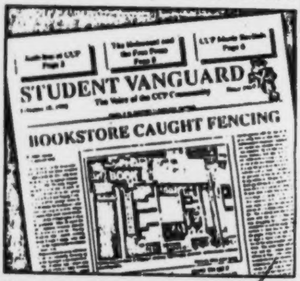
Students suing CCP for reports

[illegible]

"We feel it's necessary to give out the information to our readership so they can protect themselves," said [illegible] D. Brown, editor of the Student Vanguard (below) at the Community College of Philadelphia.



STUDENT VANGUARD

BOOKSTORE CAUGHT FENCING

[illegible]

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EXHIBIT E

SPLC

Bauer wins!

Court backs student editor's drive to open campus crime reports

By Eileen Lockwood

It wasn't the first time a college athlete walked away scot free from the consequences of an alleged rape. But when officials at Southwest Missouri State University in Springfield refused to release information on a 1988 incident there, they probably didn't count on the persistence of spunky college editor Traci Bauer.

The episode was the spark that detonated the first-ever U.S. courtroom battle over the issue of student privacy rights versus freedom of information.

SMSU claimed it could lose federal funding if it released information on the alleged rape, basing its stand on the Family Educational Rights and Privacy Act of 1974 (FERPA). Paul K. Kincaid, the director of university relations, later issued a written "clarification" of FERPA that cut off all campus crime report information from student journalists.

Bauer contended that by withholding the reports, the university was inhibiting students' ability to prepare for crime.

Part One in the landmark case of Traci Bauer vs. Paul K. Kincaid, et al. came to an end March 13th, when U.S. District Judge Russell Clark handed down a decision in favor of Bauer.

For Bauer, the decision meant "two years of waiting are finally over and we got everything we went in for."

The SMSU Board of Regents voted March 15 not to appeal the decision.

"This is a precedent-setting case which could affect thousands of schools in Missouri and across the country," Kincaid said after the ruling came down. "Our intent is to follow the court order and to cooperate with the media in every way possible."

Frank Gibson, president of the Society of Professional Journalists, hailed the decision, saying, "This is an important decision and makes a strong statement that students have the same right to know what is happening in their communities as other Americans."

In his 50-page decision, Judge Clark found that neither the criminal investigation nor the incident reports is an educational record as set forth in FERPA. He added that FERPA is not a justification for violating the Missouri Freedom of Information Act, the state's "sunshine law."

He also granted Bauer's request for a permanent injunction against SMSU's withholding of information on campus crime reports.

Last fall, Bauer won the Society of Professional Journalists' First Amendment Award, SPJ's tribute to individuals who have worked to strengthen the freedom of the press. She was then 21 and in her second year as editor of the *Southwest Standard*, the 15,000-circulation campus weekly.

"Traci is a unique individual," says retired Missouri Court of Appeals Judge Douglas Greene, who has been the principal counsel for the plaintiff. "When you meet her you don't realize that she has taken on the campus community . . . she's got a lot of backbone."

Bauer herself looks at it differently: "I don't think it's so courageous as I think it's a responsibility."

Responsibility is a word she's taken seriously since her days as the student editor at Cassville, Missouri, High School, where she credits her journalism teacher with instilling high professional standards. She carefully chose SMSU, she says, "because it had a paper that I thought I could start with as a freshman and make improvements." And she did.

Last September, the paper won a first-time regional Pacemaker award from the Associated Collegiate Press. "To us, it was like a Pulitzer Prize," Bauer says.

Circulation is up 3,000 over last year the *Standard* has been redesigned, an coverage of the city of Springfield ha been greatly expanded. "I think it's impor tant to let students know what kind o community they live in," she stresses.

When it comes to the importance o students knowing what kind of campu they live on, the university administratio stands accused of a different kind of thinking.

"The Lawsuit," as it's come t be known at SMSU, stemme from the *Standard*'s effort to get a report from the campus security office on the alleged rape of a student, on campus, by an SMSU basketball player Bauer reminded campus security officers that in the past they had turned ove reports, with names, to her and othe student reporters. But this time she wa stonewalled.

The security director, on advice fro Kincaid, pleaded FERPA. From then on [illegible] blanket gag rule on all campus crime reports was in effect. Bauer testified at [illegible] hearing in February that a clarified rulin in writing, which she had requested, wa also used as a blanket to restrict information in cases involving a university employee and a non-student [illegible] written permission to use [illegible]

Bauer contacted the Stu [illegible] Center in Washington for [illegible] Defense Fund provided $ [illegible] City attorney Dan Dod [illegible] resent her pro bono, and [illegible] she filed suit for releas [illegible] (Ex-judge Greene [illegible]

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'Two years of waiting are finally over and we got everything we went in for'

—Traci Bauer

afterward.) Ironically, Kincaid, the main defendant as director of university relations, is also the general manager of the *Southwest Standard.*

The SMSU case stands out against a national backdrop of statistical campus crime reporting that is "absolutely brand new," according to the Campus Violence Prevention Center in Baltimore.

A *USA Today* survey of 698 campuses revealed there had been a total of 31 homicides in 1987, as well as 600 reported rapes, 1,800-plus armed robberies and 13,000-plus physical assaults.

Late last year the Carnegie Foundation for the Advancement of Teaching reported that 47 percent of college presidents said crime had become a "moderate to major problem on campus" in the last five years. What things were like before 1985, no one can say for sure, since crime reporting was something colleges could sidestep without legal consequences.

But Kincaid said he had statistics to prove that Southwest Missouri State, with the second largest college enrollment in Missouri (20,500), is "one of the safest campuses in the country."

As for security efforts, he stressed some half million dollars the university has spent on improved lighting, a shuttle system, escort services and student patrols, a sophisticated dorm alarm system and an information campaign. "We even go so far as to plant bushes and trim them so there's no place to hide," he says.

But, he clarifies, "that's not really the point."

Like Bauer, Kincaid also is a member of SPJ, as well as the Public Relations Society of America. "Both (SPJ and PRSA) codes of ethics talk about upholding First Amendment rights, but they also talk about protecting the rights of individuals. The balance thereof is what we're talking about."

In March, the balance tilted in Bauer's favor, but the precariousness of that balance was reflected in a statement by SMSU President Marshall Gordon: "The questions we dealt with in this lawsuit are too large and too important to go away. They will be addressed . . . in another federal court, at the appellate level, or even at the Supreme Court."

The decision left many of SMSU's students still wondering about the issues involved.

Said Student Body president David Kellett, "As far as the lawsuit is concerned, I guess the average student doesn't really know what's going on, except for what's in the paper." Kellett said he considered the paper biased toward Bauer's cause.

"Some think that Traci wants to publish all the names with the reports," he said, "but some think she wants to publish only the incidents."

With considerable national press coverage of the case, Kellett also believes "Traci has her future in mind. But I think she also has the students in mind, and I respect her for that."

Panhellenic Council president Melissa House reads student understanding of the case as "more of an issue of student rights. Will the students win over the university? The comments I've heard are that we need to know what's going on so we can take the necessary precautions to protect ourselves."

Eileen Lockwood is a freelance writer based in St. Joseph, Missouri.

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Campus Crime

EXHIBIT F

Student seeks sexual assault reports

Illinois editor wants records to compare to campus court hearings

ILLINOIS — Eastern Illinois University provides date rape information and counseling services, but refuses to release the crime reports about those incidents.

The crimes transpire behind closed doors on this Charleston campus and currently the reports remain hidden as well.

In an effort to obtain these campus sexual assault reports, the student newspaper filed a lawsuit against the university after it rejected the editor's request for the records under the Illinois open records law.

Chris Seper, editor of *The Daily Eastern News*, filed the suit against the board of governors of the university in October for campus police "reports of sexual assaults and rape cases for the 1993-94 academic year."

According to Illinois open records law, police blotters should be open.

"It's a matter of public record," Seper said. "It's not an issue of campus papers [versus commercial papers]. It's what we're entitled to have."

The crime prevention and juvenile officer for the university police, Mike Ealy, said reports are released to the newspaper except when it would hinder an ongoing investigation.

Seper initially filed a freedom of information request for the records, but the records custodian denied the request citing privacy exemptions to the law. Seper then appealed to the university President David Jorns who denied him as well.

Seper contended privacy was not an issue in a letter to Jorns because the paper does not print the names of alleged rape victims.

Jorns refused to comment on the case and referred all questions to the school's attorney, David Stanczak.

University Police Chief Tom Larson refused to comment as well, but was quoted in a series that Seper and *The Daily Eastern News* wrote about date rape on campus and the student judicial board.

"Larson said date rapes are dangerous to report to the media because they are often the result of 'a difference of opinion' and because of the damage the reports can do to both the victim and the person accused of date rape," Seper wrote.

Most students alleging date rape choose to proceed through the student judicial system rather than the courts, thus constructing another barrier to the information. In fact, eight out of the reported nine sexual assault cases in the 1992-93 school year and both cases in 1993-94 were handled by the judicial board, which gave sentences ranging from probation to suspension.

The Daily Eastern News received brief summaries on the outcomes of the judicial board hearings only after they submitted an FOI request.

Seper said he wanted access to the campus crime reports named in the suit to compare the reported incidents to the judicial board sentences.

According to the date rape series, Larson said since the cases are handled by the judicial board and not a criminal court, there is no need to release the records to the public.

Seper and *The Daily Eastern News* also filed suit for "reports completed in connection with the threats made by an Eastern Illinois University employee toward certain school administrators."

Seper's attorney, Christopher Koester admits they have a shakier case with the employee records because the law's privacy exemption may apply ■

SPLC Report Winter [illegible]

EXHIBIT G

BAKER
&
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February 9, 1994

Mr. LeRoy Rooker
Family Policy Compliance Office
Office of Human Resources and Administration
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, D.C. 20202-4605

Re: Supplemental Comments to Proposed Amendments to Regulations Implementing Family Education Rights and Privacy Act

Dear Mr. Rooker:

As counsel to the Society of Professional Journalists ("the Society"), we are submitting these comments on behalf of the Society in response to the notice of proposed rulemaking issued by the U.S. Department of Education ("the Department") at 58 Federal Register 65298 (December 14, 1993) calling for additional comments to the proposed amendments to the Family Education Rights and Privacy Act ("FERPA") originally issued on August 11, 1993.

The Society is a voluntary, non-profit organization of 14,000 journalists, representing every branch and rank of the print and broadcast profession. As a longstanding voice of student and professional journalists, the Society has actively sought to protect its members' constitutional, statutory, and common law rights of access to records and proceedings of such public bodies as colleges, universities and law enforcement organizations.

Preliminary Comments

The plague of violence sweeping across the United States is not limited to the sidewalks and alleyways of big cities. College and university campuses around the nation have experienced an upswing in the numbers and kinds of crime committed on their grounds. Information concerning alleged crime committed on campus or involving students and the adjudication of those crimes is of great importance to many people, including

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students, prospective students, parents, campus employees and the general public.

Increasingly, however, college and university administrators have used FERPA as a blanket to smother efforts by the public and the press to obtain information regarding campus criminal activity. These policies have prompted costly and time-consuming litigation, often resulting in court orders forcing state-owned institutions to release campus crime information. See e.g., Bauer v. Kincaid, 759 F. Supp. 575 (W.D. Mo. 1991).

The new regulations now afford the Department an opportunity to render such litigation unnecessary. The Department can do this by amending the regulations to clearly state that reports and records of criminal activity and other non-academic disciplinary conduct are not subject to the restrictions on disclosure required by FERPA.

Definition Of "Disciplinary Action Or Proceeding"

As asserted in its September 27, 1993 comment letter, the Society objects to the proposed definition of "disciplinary action or proceeding" under the new proposed § 99.8(b)(2)(ii) because it is vague, ambiguous and overbroad. The Society's objections stem from the fact that there is no indication that records relating to "disciplinary action or proceeding" do not include records of criminal activity.

In addition to the reasons set forth in its September 27, 1993 letter, the Society believes records of criminal activity should be excluded from FERPA's non-disclosure rules for constitutional and public policy reasons. The First Amendment guarantees freedom of speech and of the press include not only the right to speak, or to print, but also the right to receive information. See Board of Education v. Pico, 457 U.S. 853, 868 (1982); Red Lion Broadcasting Co. v. FCC, 395 U.S. 367, 390 (1969). This tenet includes a right of access to criminal records and judicial proceedings. The courts have held that access serves the important purpose of maintaining credibility of the executive and judicial systems. By having access to the workings of the government, citizens serve as a monitor of the legal process. This vital public function should not have to be checked at the gate of the nation's colleges and universities.

Access To Records At Different Educational Levels

One of the principle goals of education is to prepare students for the world outside campus walls. All students carry the lessons they learn in school with them throughout their

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lives. At the postsecondary level, these students are adults. They should be treated as such. If colleges and universities keep secret acts of criminal conduct, they are not holding the students who commit the crimes accountable for their actions. One of the most effective ways to drive home lessons about accountability is to make people answer to their peers when they have acted irresponsibly. By making public disciplinary and other non-academic records, students will be accountable for their actions. On college and university campuses, records of students' non-academic improprieties should be treated just as the records of other adults. They should be open to the public.

The Society does not object to having records of criminal conduct at the elementary and secondary school levels being treated like state criminal records involving juveniles. Many states keep juvenile records confidential based on a heightened concern over the stigma attached to improper conduct which may be related to a given individual's immaturity. In some cases, public dissemination of juvenile crimes may impede a youth's long-term development. Whether such records may be disclosed, however, is a decision best left to the judgment of each state legislature, not the Department.

Any limitation on access to records at the elementary and secondary school levels should provide an exception where a juvenile is charged with criminal activity as an adult. In such cases, the rules regarding adult records (like the rules regarding records of students in the postsecondary setting) should apply. This is especially important in today's society, where juveniles increasingly are committing "adult" crimes.

Names Of Alleged Victims Should Be Made Available

The First Amendment provides broad protection for the dissemination and publication of information concerning a person's private life. According to the United States Supreme Court, the publication of private facts -- including names -- is protected if it bears some reasonable relationship to a matter of public interest. See, generally, Florida Star v. B.J.F., 109 S. Ct. 2603 (1989). The commission of a crime, the prosecutions resulting from it, and the judicial proceedings arising from those prosecutions are legitimate public concerns. The victim plays a crucial role in these legitimate public concerns. The identity and actions of the victim provide details that help heighten people's sensitivity to crime and crime victims.

Moreover, keeping an alleged victim's name confidential does not necessarily afford greater protection for that victim. Only if alleged victims' names are made public can the community

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evaluate whether all victims are receiving equal and fair treatment by the judicial process.

Names Of Accused Should Be Made Available

The public policy supporting the disclosure of alleged victims' names applies equally well to those accused of criminal or other non-academic disciplinary misconduct. Individuals who commit crimes and other malfeasance would be more likely to be held accountable for their actions if the public knows of those individuals' untoward acts. Adults accused of such misconduct should be publicly identified. Juveniles should be treated in accord with each state's rules on juvenile records.

A rule on disclosure must not be guided by isolated experiences of those falsely accused. Indeed, only with full disclosure can one who is falsely accused of improper behavior be assured that all information relevant to a charge be brought to the attention of the proper authorities. The investigatory stage of disciplinary proceedings is often the one of greatest public interest, and may well be the only stage where the public can help ensure a just result for an accused.

Conclusion

As the Department is undoubtedly aware, the Clinton Administration recently announced a new policy regarding access to government information. See Memorandum For Heads of Departments and Agencies Re: The Freedom of Information Act, The White House, October 4, 1993. President Clinton's directive regarding the Freedom of Information Act ["the FOIA"] applies with equal force and vigor to the release of all government-controlled information. As the President said:

> The [FOIA] was enacted based upon the fundamental principle that an informed citizenry is essential to the democratic process and that the more the American people know about their government the better they will be governed. Openness in government is essential to accountability . . . .

Education Secretary Richard Riley echoed the President's remarks, urging that "the Department implement the substance and spirit of disclosure and accountability embodied in the President's directive." See Memorandum to Senior Officers Re: Administration of the Freedom of Information Act, Office of the Secretary of Education, October 27, 1993.

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The principles espoused by the President and Secretary Riley should guide the Department in its drafting of new regulations implementing FERPA. At this critical time, the Department should be taking steps to provide people with as much information as possible about the safety of college campuses. The public has a right to know the nature and frequency of crimes. The public has a right to know how its educational institutions are combating the growth in crime.

The Society appreciates the careful attention that the Department is devoting to the regulations implementing FERPA, and also for the opportunity to comment.

Sincerely yours,

Robert D. Lystad

Robert D. Lystad

cc: Mr. Paul K. McMasters, SPJ President
Ms. Carolyn Carlson, Campus Courts Task Force
Ms. Lucy Dalglish, SPJ National FOI Chairperson
Mr. Greg Christopher, SPJ Acting Executive Director
Bruce W. Sanford, Esq.

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Feb. 14, 1994

FEB 14 1994

LeRoy Rooker
Family Policy Compliance Officer
Office of Human Resources and Administration
U.S. Department of Education
400 Maryland Ave. SW
Washington, D.C., 20202-4605

Dear Mr. Rooker:

I am writing in regard to the Federal Register's Tuesday, Dec. 14, 1993, request for comments regarding proposed amendments to regulations implementing the Family Educational Rights and Privacy Act mailed to me by you.

While responding to you on an earlier call for comments, I mentioned the limited time frame for accepting comments (30 days) seemed unreasonable and far too short for such an important issue. Your office was kind enough to extend that deadline. In this letter, I think the DOE may find reason to continue dialogue on the matter of revising language in FERPA/Buckley. The issue is extremely complicated. But I think it can be resolved amicably and in lieu of litigation if players on both sides are given time to work on it. Indeed, if that had been 25 years ago, you and I might not be dealing with the matter at all.
I am a member of the Board of Directors of the Society of Professional Journalists and was elected to the board as a student advocate. I taught junior high school and high school for three years. I am working journalist. I have taught at the college level for six years now and serve as an academic advisor for 45 to 50 students per quarter. I advise a student yearbook and a student newspaper, a position that attaches me very closely to matters at the crux of the issue of closure in terms of recent federal and state court litigation on access.
And I recently spent four days speaking to and with campus judicial affairs officers from the around the country about specific changes in FERPA/Buckley language that would resolve this matter amicably, and to

clarify what both sides agree is bad language, vague language and legislation designed to foster court cases.

I spoke with the Association of Student Judicial Affairs membership at its invitation and as a representative of the Campus Court Task Force on which I serve as a representative of SPJ. But I really spoke to them as a citizen of the U.S., a resident of the state of Alabama and a teacher concerned with bettering our country through education and protection of its citizens constitutional rights. I am now a member of ASJA because outside of the issue of Buckley, I strongly agree with the organization's philosophy and ASJA offers a wealth of resources for me as an educator at the post-secondary level. ASJA did not have to let me speak. That shows its willingness to listen. I didn't have to go. I, the Task Force and SPJ are open to dialogue too. I believe most members and the leadership of ASJA appreciated my willingness to listen to the ASJA position and to open some dialogue. I intend to talk about that dialogue specifically later in this letter.

Yet, even after that conference Feb. 10-13, I remain adamantly opposed to any changes in language relating to academic records, disciplinary records and student judicial records, etc. that would close these records in cases where the hearings would not be specifically academic, that is in matters involving incidents and behavior of a criminal nature. I support the position and language of SPJ and the Campus Courts Task Force on this. This position and language has been forwarded to you by Bob Lystad for SPJ and the CCTF. I don't feel a need to repeat it.

The DOE has been forwarded a resolution approved by the ASJA and a letter from its board outlining the position of ASJA on this matter. During the ASJA business meeting Saturday, Feb. 12, I voted "no" on the resolution, although you should know that mine was the only "no" vote and that I had been a member of ASJA for two days. As for the letter sent by the ASJA Board, I think this letter will clarify where I stand.

The assumption that "disciplinary records" have always been considered "education records" has no merit and clearly resembles an effort on the part of the DOE to circumvent federal and state court rulings regarding interpretation of FERPA and/or the Buckley Amendment. That kind of language was dropped from the original version of FERPA and replaced because members of Congress did not want the bill to protect criminals. For any citation in the Congressional Record that hints disciplinary records should be considered "education" or "academic" records, you will find other comments that make it clear Congress did not want FERPA to be used as a tool to shroud criminal acts on college campuses in secrecy and/or to protect the image of the institutions where these crimes occur.

Despite conversations with the ASJA membership, I still believe that any DOE plan to amend FERPA in a way that would deny access to records relating to criminal activity on college campuses, especially records of college judiciary bodies or courts making decisions on matters of a criminal nature, clearly:

Represents an attempt to breach First Amendment rights to access and report on these matters;

Interferes with long standing state open meeting and open record laws designed to protect citizens from government operating outside the public eye;

Perpetuates behavior that does not enhance campus efforts to ensure a safe environment for its residents;

Would lead to abuses of individual rights and due process;

Causes more harm than good.

Now I would like to address specifically comments made by judicial affairs officers about rights to privacy, safety, "in loco parentis," differences between the student judicial process and the U.S./state criminal justice system and more.

1. As I wrote earlier, as a faculty member at a four-year public university, I am well aware of the need to protect a student's privacy in the area of academic matters. No one works harder at that at Troy State University than me. But I clearly don't agree that criminal activity on campuses such as assault, sexual assault, drug-related matters, firearms possession, arson and other behavior has an "academic" signature.

I repeatedly heard Bill Bracewell of the University of Georgia state during a presentation to ASJA on the "Red and Black Case" that the incident prompting that lawsuit and other incidents on the University of Georgia campus such as a sexual assault, driving under the influence of alcohol and a student taking money from a gay in exchange for protecting the gay's identity were not criminal behavior.

"We are not dealing with criminal behavior," he said. "We are not responding to criminal behavior. . . That's not criminal law stuff.

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What Bracewell and others call these acts for the purposes of defending secrecy is "violations of student discipline codes." But I believe most would agree that arson, sexual assault, extortion, drunk driving, etc. are crimes. Indeed, ASJA passed two other resolutions this weekend, both which I supported and which passed unanimously, that show that. Let me share parts of those with you:

A. Guns and Other Weapons on Campus resolution:
"Whereas, research has reported that college campus crime is increasing and becoming radically more violent."
"Whereas, the incidents of violent crimes and the possession of guns and other weapons is contrary to the spirit of the academic community, where free expression, civil disagreement and debate are encouraged;"

B. Stalking resolution:
"Whereas, stalking is a crime in at least 48 states and the District of Columbia."

2. A very strong point for closing these records/hearings is made by the ASJA and others and deals with the matter of incident reporting. I have spoken with many judicial affairs officers and with Troy State University's Campus Police Chief about this and acknowledge the validity of their concern. That is that if a student involved in a serious incident knows they or others might be identified or would have a case heard in a public matter, they simply wouldn't file a complaint, and hence, the campus would be less safe. I suspect that this might be true. However, if the campus judicial officers get out of the business of handling serious crime and allow if at all possible the criminal justice system to handle them the situation alone or parallel to the campus judiciary approach (as is often the case), FERPA wouldn't be such a hang-up. More on that later. More specifically to the point, what's needed is to teach people not to commit the acts, to teach them the value to themselves and others of reporting all incidents regardless of circumstance, and to teach them that they will be held accountable for their acts. None of this is easy to do and I'm sure efforts are being made. But to simply say "all that's too hard to do, let's just close the system to the public" is a very weak alternative.

3. Related to the information above, this point of view offered by several ASJA members makes another valid point. They say they would love to not have to deal with behavior (they try to avoid crime, remember) such as

sexual assault, assault etc., but in that regard they face serious hurdles such as:

A. Lack of cooperation from municipal police. They say the municipal police often don't want to deal with campus incidents because they have too much to do in their towns and cities.

B. The judicial officers said that added to that problems is an attitude problem among local prosecuting attorneys. They don't want to mess with campus stuff, the campus judicial officers say. And they don't want to handle "messy" cases such as rape, and those or other cases they might not win, the judicial affairs people say. Again, if that's true, the public needs to know that, educational institutions need to attack the problem, and law enforcement needs to recognize the changing nature of student behavior on campus. Closing on-campus hearings addresses none of those things. Indeed, it can and I'm told that in some cases does cause a crime incubator among campuses. Here's an example:

C. During the ASJA meetings this week a woman told me this. If she turns over a serious (criminal) matter to the criminal justice system it could take forever to be resolved. In the meantime, the alleged (and I emphasize the word "alleged" perpetrator posts bail and could continue campus life as per usual.

"That student could finish a doctorate degree before the criminal system disposes of the case," she said.

She went on to say that she can call a student judiciary hearing and the student can be dealt with quickly.

Here is what I asked her and told her about that scenario:

First, they expedite a case and kick a kid out of school who may very well be innocent. Judicial officers often say that they use a lower standard of proof than the criminal justice system, and they use that argument to imply that it makes them different than criminal courts and that it makes their campuses safer. That lesser standard is why some students want the hearing opened to ensure they are being treated fairly (LSU-Shreveport). But there is another important issue here. Let's say the student is actually guilty. The woman said: "I've gotten him off my campus." Right, and with closed records and files that now allow that sexual assaulter to enroll somewhere else and commit the same crimes. If that woman tries to protect her fellow judicial officers by "leaking information" from that hearing at her school to them she's committed a crime. And if that student sent packing were to find that out, he can sue that institution for some big bucks. Likewise, if that student should be denied admission to another university unfairly based on information in secret file, he can sue them too. Under this scenario, we have a rapist who can go to school somewhere else and possibly with a pocketful of money culled from university's he sues successfully for release of confidential information. My hasn't the system been served well. And I will add that during this discussion, several judicial affairs officers raised their eyebrows when they heard this woman's plan for quickly dispatching a rapist or an alleged rapist to their campus.

4. On FERPA-related matters, University officials say that they don't want to be micromanaged by the DOE, and they don't want to be beholding to the states either. When these kinds of incidents are handled "internally" by universities, records relating to them clearly fall under state and federal open meetings and open records statutes. So what do they want? Autonomy, independence and on this matter, secrecy.

5. The judiciary officers say that what they do is not like what the criminal courts. Yet, the language they use, the systems they create, and many of the processes they use are exactly the same, except that the criminal justice system in this country is open to the public.

6. Bill Bracewell told the audience that the media wants them to believe open meetings and open records laws were created for the media. As a journalist and journalism educator that teaches media law, and as SPJ's Project Sunshine Director for the state of Alabama, I tell you nothing is farther from the truth. I don't believe what Bracewell said, I don't teach it and I don't preach it. State open meeting and records laws have been on the books in some states for more than 100 years. They came about long before the media, particular newspapers, became institutions of record and

watchdogs for the public in a news reporting rather than an editorial sense. These laws protect and serve the public. They afford no special treatment to journalists, nor should they deny journalists any rights afforded any citizen.

7. The "in loco parentis" concept in the area of campus judiciary access is a dangerous shell game. The "in loco parentis" concept makes the university officials caretakers. Indeed, campus officials will tell you that their discipline systems are set up to teach responsibility for actions and that "in loco parentis" recognizes that these young adults can't always take care of themselves. Well, as an educator, I question what a student

learns when they commit a serious act, and they know that while they may get punished, few if any will know about it.

And, if these students require so much care, why do we let them sit on student judicial hearing boards and pass judgement on peers on matters of such a serious nature? And, oh by the way, expect, indeed, demand that they do not breach confidence.

Mr. Rooker, I believe in the value of the student advocacy system. I intend to learn more about it and I intend to stay active in the ASJA as long as they will have me. It and on other campuses is where I can learn more about it. I have great admiration for judicial officers, even more after meeting with ASJA. It's a tough job.

I agree that these are very complicated issues.

I recommend we find ways to resolve them together. That will take time, and we and perhaps you don't have that luxury right now. But it seems haste is what got us here. Let's learn from our mistakes.

And let's not be tempted to take the easy way out, censor and close, before more reasonable and constitutional ways are explored.

Sincerely,

Gordon "Mac" McKerral
Assistant Professor
Publications Adviser
Hall School of Journalism

EXHIBIT H

UNITED STATES DEPARTMENT OF EDUCATION
THE SECRETARY

JAN 10 1995

Honorable William F. Goodling
Chairman, Committee on Economic and
Educational Opportunities
House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

UNITED STATES DEPARTMENT OF EDUCATION
THE SECRETARY

JAN 10 1995

Honorable William (Bill) Clay
Ranking Minority Member
Committee on Economic and Educational Opportunities
House of Representatives
Washington, DC 20515

Dear Mr. Clay:

UNITED STATES DEPARTMENT OF EDUCATION
THE SECRETARY

JAN 1 - 1995

Honorable Edward M. Kennedy
Ranking Minority Member
Committee on Labor and Human Resources
United States Senate
Washington, DC 20510

Dear Senator Kennedy:

In 1974, Congress passed the Family Educational Rights and Privacy Act (FERPA), also known as the Buckley Amendment, to protect the privacy rights of parents and eligible students

UNITED STATES DEPARTMENT OF EDUCATION
THE SECRETARY

JAN 10 1995

Honorable Nancy Landon Kassebaum
Chairman, Committee on Labor and Human Resources
United States Senate
Washington, DC 20510

Dear Madam Chairman:

In 1974, Congress passed the Family Educational Rights and Privacy Act (FERPA), also known as the Buckley Amendment, to protect the privacy rights of parents and eligible students in the student's education records. It does this by conditioning the receipt of Federal education funds by educational agencies and institutions upon compliance with FERPA.

FERPA affords parents certain rights with respect to their children's education records. When a student has reached the age of 18 or is attending a postsecondary institution, the student becomes an "eligible student" and all rights previously afforded the parents under FERPA transfer to the student. Under FERPA, the term "education records" is broadly defined to include all records that contain information directly related to a student that are maintained by an educational agency or institution, except those records that are specifically excluded by statute. FERPA requires schools to provide parents and eligible students an opportunity to inspect and review their education records within 45 days of the receipt of a request. The law prevents educational agencies and institutions from disclosing education records, or personally identifiable information from education records, without the prior written consent of the parent or of the eligible student.

Congress has amended FERPA seven times since its enactment. Relative to our discussion here, Congress amended FERPA as part of the Student Right-to-Know and Campus Security Act of 1990 to provide a specific exception to the prior written consent rule. That exception permits a postsecondary institution to disclose to an alleged victim of a crime of violence, as defined in the United States Code, the results of any disciplinary proceeding conducted by the institution against the alleged perpetrator. As part of the Higher Education Amendments of 1992, Congress amended FERPA to exclude from the definition of "education records" and, thus, from the rights and restrictions of FERPA, records of an educational agency's or institution's law enforcement unit that are created and maintained by that unit for a law enforcement

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purpose. Under previous law, in order for the records of a law enforcement unit to be excluded from the definition of "education records," certain conditions had to be met, including a requirement that the records be shared only with law enforcement officials of the same jurisdiction. In the interest of promoting school safety by making law enforcement unit records publicly available, Congress amended FERPA to remove these conditions.

The Department issued two Notices of Proposed Rulemaking (NPRM) in preparing regulations to implement the statutory change relative to records created and maintained by an institution's law enforcement unit. The proposed regulations defined for the first time both "law enforcement unit" and "disciplinary action or proceeding." In contrast to law enforcement unit records, the Department has been legally constrained to treat the records of a disciplinary action or proceeding as "education records" under FERPA, that is, subject to inspection and review by parents and eligible students and protected against non-consensual disclosure except in statutorily specified circumstances, such as the limited disclosure of the results of disciplinary proceedings to victims of crimes of violence as noted above. We proposed the definition of "disciplinary action or proceeding" to help institutions distinguish disciplinary records from law enforcement unit records, which are excluded by statute from the definition of "education records" in the circumstances specified.

Many of the public comments received on the first NPRM challenged the Department's position on this issue and expressed the view that records of institutional disciplinary proceedings taken against students accused of criminal and other non-academic misconduct should not be considered "education records" under FERPA and should be available to the public even without the parent's or student's consent. These commenters stated that campus disciplinary hearings and proceedings should be open to the public, which many State open meetings laws would require if FERPA allowed complete disclosure of the records involved in those proceedings. This issue, which continues to be the subject of recent media attention, took precedence over the issue of law enforcement unit records in the comment process. The Department sought additional public comment on the issue through a second NPRM because important and sensitive concerns were raised about both campus crime and students' need for privacy and access to records in the educational process.

A majority of the comments on the second NPRM were from officials of postsecondary institutions. Most of these officials expressed the belief that to allow the release of students' disciplinary records to the public without consent would compromise what they believe to be the fundamental educational mission of the campus judicial process. Several of these commenters stated that if

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FERPA were amended to allow such disclosures, institutions would have to amend their disciplinary procedures to incorporate greater due process protections. They argued that campus judicial systems have been effective in responding to violations of institutional policy because of the privacy protections afforded to students by FERPA.

A substantial minority, however, disagreed and argued that postsecondary institutions have used FERPA to evade efforts by the public to gain access to information about crime on campuses. Some of these commenters also believe that the Department's position in this matter represents an effort to circumvent the recent State court ruling, Red & Black Publishing Co. v. Board of Regents, 427 S.E.2d 257, 261 (Ga. 1993), which considered records concerning a disciplinary action against a student fraternity outside the definition of "education records" and, thus, outside the privacy protections of FERPA. Although Red & Black Publishing Co. v. Board of Regents concerned records of a student "organization court," which disciplined a student fraternity for rules violation, and did not concern disciplinary action against an individual student, the case does point to a growing public perception that schools are using FERPA to justify not disclosing information about crimes occurring on campus. A more recent State court decision ruled that FERPA prevented a university from releasing to the media personally identifiable information from student disciplinary records without consent. Shreveport Professional Chapter of the Society of Professional Journalists v. Louisiana State University in Shreveport, Case No. 393,332-B, First Judicial District Court, Caddo Parish, LA (March 4, 1994).

Although we think it is clear that the definition of "education records" includes student disciplinary records, it is also the case that crime on our Nation's college campuses and in our elementary and secondary schools has escalated since 1974 when FERPA was enacted. In light of this development and the ongoing public and media attention to the issue, we believe that the various competing interests need to be identified and balanced in the legislative forum. The Congress may find that public access to disciplinary records concerning criminal and other non-academic misconduct is an appropriate response to the problem of maintaining safe college campuses. On the other hand, issues regarding the privacy of minor students and their families at the elementary and secondary school level may require different treatment than those of postsecondary students and may require further study. In any case, I would like to propose that the Department work with Congress to help resolve these disputes, including assisting Congress in drafting an appropriate FERPA amendment to address the issue of nonconsensual disclosure of student disciplinary records.

I look forward to working with Congress to solve this problem. This letter has also been sent to Senator Kennedy, Chairman Goodling of the House Economic and Educational Opportunities Committee, and to Congressman Clay.

Yours sincerely,

Richard W. Riley

foi essay/campus

EXHIBIT I

Law masks serious crimes on campus as 'maturing' process

Student editors turn to Congress to open hearings

BY MICHELLE MILLHOLLON

My experience fighting for access to campus disciplinary hearings has convinced me that if the issue is not addressed by Congress, it's a lost cause.

A Shreveport judge ruled last year against a motion for access to disciplinary hearing records at Louisiana State University in Shreveport. The motion was filed by me as editor of the *Almagest* and Frank P. May, editorial page editor of *The Times* of Shreveport and president of the Shreveport professional chapter of the Society of Professional Journalists.

Our campus newspaper had discovered that two members of the Student Government Association had been accused of bilking thousands of dollars from a student book exchange. The accused students told me they had been called before a disciplinary board, scolded, fined, and suspended until they paid back the money—money that was owed to students whose books had been sold through the exchange.

My last call before wrapping up the story was to the administration to confirm what the students had told me about the results of the hearings. My request for confirmation was denied on the basis that disciplinary hearing records—even when they concern criminal activity—are part of a student's educational record and therefore private.

Ludicrous.

When did embezzlement become part of a university's curriculum? Or rape, or assault, or stalking, or any of the other serious criminal conduct occurring on campuses nationwide and being swept under the carpet?

LSU-Shreveport argues that a student is maturing into an adult while attending college and making "mistakes" is part of growing up. Are embezzlement and other serious crimes now child's play?

If you are mature enough to plunder and rape, then you are certainly mature enough to suffer the adult consequences. This is not Ward disciplining the Beaver.

My vice chancellor assures me that "serious crimes" that occur on campus are turned over to the police, so there is not a need to embarrass students by opening the hearings. What I can't seem to make her understand is that an open court system is not designed to humiliate, but to assure that justice is served.

I find it hard to believe that LSU-Shreveport went to the tremendous expense and headache of fighting my motion to save two students with sticky fingers from embarrassment. I think its motivation lies more in its public image and that is also where the potential for abuse lies.

The incident at my university was brought to the district attorney's attention only after I asked if it had been. I shudder to think how many other skeletons could be lurking in the university's closets to the oblivion of the District Attorney's office. A blemish on a student's academic record does not alert the authorities or the public to a potentially dangerous person, nor does it begin to build a criminal record.

We simply cannot rely on universities to do the right thing and handle serious criminal allegations by alerting the police. In order for our college campuses to be safe and justice to be routinely delivered, these proceedings must be open to the public.

Justice should be blind, not gagged.

Despite the Department of Education's recommendation in January, this issue has landed in most congressional leaders' circular files. In order to fish it out and land it on the congressional agenda, Mike Hiestand at the Student Press Law Center says college journalists have to give this issue a voice.

Tell Congress why it needs to address this. Tell it your concerns. Remind it this is a country where freedom still rings.

I have written my letter. ■

Congressional leaders drag feet on changing law

The Department of Education punted the access issue to Congress in January, but educational leaders on Capitol Hill are not running with the recommendation to address access to campus crime hearings.

SPJ's National Campus Courts Task Force is discussing how best to tackle the problem, but in the meantime task force Chair Gordon "Mac" McKerral and the Student Press Law Center's Mike Hiestand offer this advice for student journalists:

☛ Keep knocking on the door. Try to attend campus court sessions even if you get kicked out.

☛ Touch base with McKerral, (205) 670-3328 or (205) 566-2451, or Hiestand, (703) 807-1904, (703) 807-2100, or splc@capaccess.org, on whether you are allowed in.

☛ Be vigilant in finding out about disciplinary matters. If you are kicked out of a hearing, find someone who wasn't and ask that person what transpired.

☛ Contact the four congressional leaders asked to address this issue: Sen. Nancy L. Kassebaum, R-Kansas, 302 Russell Building, Washington, D.C. 20510, (202) 224-4774; Sen. Edward M. Kennedy, D-Massachusetts, 315 Russell Building, Washington, D.C. 20510, (202) 224-[illegible]; Rep. Bill Goodling, R-Pennsylvania, [illegible] Rayburn Building, Washington, D.C. 20515, (202) 225-5836; and Rep. [illegible], D-Missouri, 2306 Rayburn Building, Washington, D.C. 20515, (202) 225-[illegible] ■

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EXHIBIT J

THE NEW YORK TIMES **OP-ED** THURSDAY, MAY 9, 1996

Students Should Not Be Above the Law

By John Silber

BOSTON

In medieval Europe, there were two parallel court systems the church's and the king's. The big difference between them was that the church courts did not resort to capital punishment.

In an age when all felonies were capital crimes, the church court was, from the defendants' point of view, considerably more attractive.

Although in theory these courts were limited to clergymen, in practice one proved clerical status by being able to read. And this skill was indulgently tested. One had to read a verse of one's own choosing from the Bible. Hence, the foresighted felon memorized his verse. It assured him of what was known as "benefit of clergy."

This system now seems quaint. But today colleges and universities increasingly tend to circumvent the courts and bury serious criminal cases in their own judicial systems.

For instance, a young man at Miami University in Oxford, Ohio, is being allowed to graduate this year even though he was put on "student conduct probation" after he was accused of sexually assaulting an 18-year-old freshman who was sleeping.

Colleges have a right to establish judicial codes to assure civility in the classroom, on the campus and in residences. But the administration of these codes should not give criminals sanctuary from the law.

Yet in many cases administrators successfully press students not to bring criminal behavior to the attention of the police and instead use campus disciplinary proceedings to judge charges of rape, arson and assault.

No campus court can impose a fine or imprison anyone for a single day. The most serious sanction is expulsion. The penalty for criminal assault is often not much worse than being tossed out of a club.

College judicial systems were originally intended to deal with infractions that were neither felonies nor misdemeanors, perhaps not even torts. And most disciplinary proceedings don't have the basics required for a fair trial a professional and independent judiciary, enforceable rules of procedure, effective and fairly applied sanctions.

Judging crimes is a job for courts, not colleges.

But this is not the most serious problem. Once again, students are receiving special treatment. This treatment was the great scandal of the Vietnam War. The ability to gain entry to and finance college provided a "benefit of clergy" to middle class young adults who avoided the draft.

Many administrators recoil from the idea that they should operate a collegiate criminal justice system. One can understand why. Outside of law school faculties, few academics have an interest in prosecution.

There is, of course, a simple way for administrators to avoid this entanglement. They can refer all criminal cases to the real criminal justice system. This is their obligation, not merely as administrators but as citizens. (Indeed, there is a name for a citizen who becomes aware of a crime and does not report it an accessory after the fact.)

Students, predictably, don't like this idea. But in my 25 years as a college president, I have heard again and again that students wish to be treated as adults. But I have also heard their repeated demands that they be exempted from the laws of Boston, of Massachusetts and of the United States.

These two demands are contradictory. Legally, college students are adults. There is, of course, a difference between legal adulthood and substantive adulthood. Some people achieve substantive adulthood at 12, others never do. But except for the anomaly of the drinking age, everyone can claim legal adulthood at 18. And that includes the obligation to be held accountable for criminal behavior — not in juvenile courts or in the even more lenient courts of the academy but in the adult courts.

When colleges and universities usurp the role of the courts, they deny justice to victims. But they also do a terrible wrong to perpetrators, for they deny them entrance into the adult world of responsible action. And in this they fail utterly as educators. □

John Silber is the president of Boston University.

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LETTERS TO THE EDITOR

Chronicle of Higher Ed June 8, 1994

The Need for Access to Student Disciplinary Records

To the Editor:

While journalists and campus judicial officers argue over public access to internal disciplinary proceedings ("Misguided Campaigns for the Release of Students' Disciplinary Records," April 27), far more systematic public disclosure of individual student disciplinary sanctions clearly is warranted:

- to educate students about the standards of their institutions and the consequences of their actions;
- to maintain the public credibility of colleges and universities;
- and to preserve the good names of students who do not cheat, steal, plagiarize, or otherwise violate campus policy.

So long as secrecy surrounds the entire campus judicial process, talking of its educational value is nonsense. A case can be made for privacy during an investigation of charges, but not when sanctions are imposed.

Besides giving incoming students a copy of their rules, colleges should inform them that—upon a finding of guilt—the institution will routinely publish their names, together with a summary of the charges, the investigation, the sanction, and any response from those deemed guilty.

Stanford followed this practice in a dozen faculty disciplinary cases in the 1960's, 1970's, and early 1980's, with salutary results. The institution—and the individuals involved—usually took one hard shot in the headlines and then moved on with their lives.

The rumor mills—and repeated headlines—resumed at the end of the 1980's and early 1990's when campus lawyers—and defense attorneys—decided to say only that professors had been "disciplined." That's left the grapevine free to strangle individual reputations in cases ranging from professorial plagiarism to sexual harassment.

The same goes for students. If victims are informed of the outcome of campus disciplinary proceedings, what's to stop them from telling their friends? On the other side, in the absence of a public record, those found guilty remain free to spin their own tales and find more unwitting victims.

Far better for all to be up front and public. Knowing that rule breakers will be publicly identified provides an incentive for students to learn more about the campus judicial system. It may even deter some misbehavior. In some cases, publicity alone may suffice as discipline.

Those found guilty may be contrite, defiant, cite extenuating circumstances, affirm their innocence, or choose to stay silent. All should be heard, on the record—not quietly compressed into a judicial office's yearly statistics.

Learning from mistakes is an important part of education—both for individuals and for the campus community. When a student at Stanford repeatedly called a publicly gay staff member "faggot," the university went public, naming names. The resulting flood of commentary educated thousands. Had the homophobe's target been another student, everything would have been decided behind closed doors. . . .

Publishing the names of those found guilty—and their individual responses—could be especially valuable in high-profile cases, such as those which have recently emerged at the Naval and Air Force Academies. In the long term, how individual cadets respond tells as much or more about them—and their institution—as what actually happened.

In the 1980's at Stanford, more than 20 undergraduates were accused and over a dozen found guilty of cheating in an introductory psychology class. Since the university does not name those found guilty, does not disclose the courses individuals take, and has several cases of confirmed cheating every year, there simply is no way ever to clear the innocent.

Major colleges and universities receive thousands of inquiries every year about the credentials of those claiming degrees from a particular institution. In an increasing number of high-profile cases—gubernatorial and presidential aspirants, for example—there is a strong public interest in knowing whether or not an individual was found guilty of misconduct as a student.

Other academic institutions might have a legitimate interest in knowing whether prospective young professors had ever been found guilty of plagiarism—but they have no way of finding out. Only recently have physicians and other professional groups begun to see the public's interest in protection from those found guilty of malpractice.

Systematic, routine publication of student disciplinary actions would help to quickly resolve these kinds of questions in the future—whether or not an institution chooses to make these disciplinary actions part of a student's official record.

Similar procedures should be followed for faculty and staff. Until the shroud of secrecy surrounding campus judicial sanctions is stripped away, the transgressions of a few will continue to cast a cloud over the reputations of thousands of colleges and millions of alumni.

Bob Beyers
Director, 1961-1990
Stanford University News Service
Palo Alto, Cal.

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To the Editor:

This letter is intended to express an alternative position to the one presented by my friend and respected colleague, Dennis Gregory.

Dr. Gregory's thesis that the records of campus judicial proceedings should continue to be considered "education" records under the Family Educational Rights and Privacy Act (the Buckley Amendment) is well intended, but his assumptions are incomplete, his example misleading, and his conclusions ultimately erroneous.

Dr. Gregory rightly clarifies for the reader that campus judicial proceedings are educational in nature and guided by principles and purposes distinct from those of criminal proceedings. This is largely misunderstood on most campuses, and Dr. Gregory should be commended for reminding us of this fact.

Dr. Gregory, however, neglects to point out that most campuses consider the preservation of order and the safety and security of campus members and property a second and co-equal purpose of their judicial systems. Generally, both purposes can be accomplished, but in the difficult cases a balance of competing interests must be achieved [illegible] decision in favor of the [illegible]

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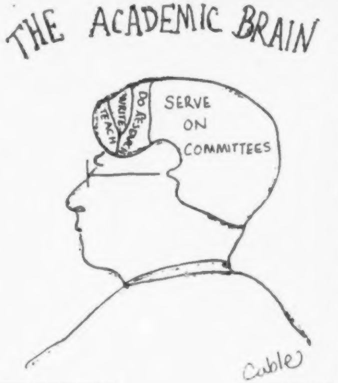

THE CHRONICLE OF HIGHER EDUCATION — CAROLE CABLE

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8A · TUESDAY, FEBRUARY 13, 1996 · USA TODAY

THE

"USA TODAY hopes to serve as a forum for better understanding and unity to help make the USA truly one nation."
—Allen H. Neuharth
Founder, Sept. 15, 1982

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President and Publisher

Today's debate: CAMPUS JUSTICE

Campus courts often don't dispense justice

OUR VIEW **Many times, campus proceedings serve only the schools' reputations by keeping crimes secret.**

In the name of justice, college judicial systems are remarkably prone to achieving just the opposite. Just ask Christy Brzonkala and Antonio Morrison, students on opposite sides of a rape case at Virginia Tech.

Since Brzonkala accused Morrison and another Virginia Tech football player of raping her in 1994, the campus judicial system has proved a poor substitute for the real thing. Brzonkala thinks the university betrayed her, and she's suing. Morrison may have been unfairly tarred. Meanwhile, the federal government has given the case celebrity status. Brzonkala's $8.3 million lawsuit filed against the university and her accused attackers is the first civil case filed under the Violence Against Women Act.

The message for other institutions: When students are charged with serious crimes, don't rely on your own cops and courts. Call in the real thing.

The Virginia Tech case began under the worst circumstances. Brzonkala waited six months before reporting the alleged attack to the campus disciplinary system. Both football players denied wrongdoing.

After hearing conflicting accounts, Virginia Tech's judicial panel exonerated the second player but found Morrison — who contended that Brzonkala consented to sex with him — guilty of "abusive conduct." After he threatened to sue, Morrison got a second hearing but the same verdict and decision — a one-year suspension.

That "sentence" was overturned by the university's provost, who deemed it "unduly harsh." Morrison instead was ordered to attend a "one-hour educational session."

No doubt, justice bypassed someone at Virginia Tech. It's just not clear whether Morrison or Brzonkala is the victim.

This can happen in criminal courts, too, of course. But it's far more likely to occur on campus, where fear of adverse publicity can influence both the investigation of crimes and their punishment. Because collegiate courts don't play by judicial rules — and generally don't hold proceedings in public — their systems remain vulnerable to abuse, either from hidden motives or simple ineptitude. The students pay the price.

Brzonkala felt misled by Virginia Tech's confidential justice system, which denied her access to court records that Morrison got. Morrison felt victimized — hounded for a crime he denied committing.

Campus courts were conceived as a delicate and confidential way for students to deal with indelicate crimes such as date rape. But serious crimes deserve serious treatment. And when crimes occur on campus, the community and potential applicants have a right to know about them.

A campus judiciary may be a convenient way of handling minor offenses. It may be a useful adjunct to the criminal justice system. But it is no substitute.

EXHIBIT K

The Red & Black

An independent student newspaper serving the University of Georgia community

TUESDAY, MAY 24, 1994 • ATHENS, GEORGIA • VOLUME 101, ISSUE 142

Busted? Peers most likely to suspend you

This is the first of a three-part series about the Student Judiciary.

TODAY: Inconsistent DUI sanctions; student justices found to suspend more than administrators

WEDNESDAY: Academic dishonesty cases will be moved from Judicial Programs to Academic Affairs because of inconsistent sanctioning, according to some University faculty members

THURSDAY: Lawyers [illegible] their encounters with the Student Judiciary

By JENNIFER BAKER
Staff Writer

If you get sent to Student Judiciary for DUI, chances are your peers will suspend you while an administrator will allow you to stay in school.

In fact, student justices are seven times more likely to suspend you than an administrator.

An investigation of Student Judiciary DUI cases shows that Main Court student justices suspend student defendants 57 percent of the time, while administrators suspend only 8 percent of the time.

The investigation was conducted by The Red and Black winter and spring quarters, after the Georgia Supreme Court ruled in December 1993 that student disciplinary records were open to the public.

The implications, according to experts, are obvious.

Based on the percentages, two local attorneys and two of three Judicial Programs administrators said if they were student defendants they would [illegible] administrator to hear their case [illegible].

"I'm not going to want to get [illegible] I'm going to want an administrator," [illegible] of Judicial Programs.

Athens attorneys Jeff Rothman and John Timmons, as well as Student Affairs legal adviser [illegible]

According to one DUI defendant, the student justices are aware of their suspension rate.

Marsh Darran, a freshman who chose student justices to hear his case, said, "When (the justices) gave me my decision (of 60 hours of community service and probation), he told me that I was lucky because three out of four people get suspended for DUI."

When arrested by University police, students must face both Athens-Clarke County Municipal Court and the University Student Judiciary system.

For the University hearing, defendants must choose between facing one administrator or three student justices (the Main Court). The particular administrator or combination of student justices is not up to the defendant.

The Red and Black studied 19 DUI cases heard by Student Judiciary winter and spring quarters and found the University's parallel systems are anything but equal.

Defendants who chose the Main Court to hear their DUI cases were usually suspended and placed on probated expulsion, which means the student will be expelled if found guilty of DUI again.

Students who chose an administrator to hear their DUI cases consistently received community service hours, alcohol counseling, written papers and probated suspension or expulsion.

Of the DUI 19 cases studied:

- Seven students took their cases to student justices. Four of those defendants were suspended.
- Twelve students took their cases to administrators. One defendant was suspended.

The records reflect the total number of DUI cases heard from January through April. Records from DUI cases held in May have not yet been made available to the public.

Defendant Cindy Runge, who was suspended for DUI by the Main Court, said she could speak from experience on the inconsistency.

"A guy I knew was arrested the same night as me (for DUI)," Runge said. "He [illegible]

According to some attorneys, the unequal justice may be due in part to the sanctions being chosen for each case [illegible] experienced University courts create consistent sanctions. In turn, state courts have guidelines in determin[illegible]

Attorney: Youth, lack of guidelines contribute to 'less tolerant' justices

By JENNIFER BAKER
Staff Writer

Some Athens attorneys and University officials say student justices issue harsher DUI sanctions because they are "less tolerant" than administrators and they don't have sanctioning guidelines.

Jeff Gilley, an Athens attorney who has represented students before the Student Judiciary for 11 years, said he has noticed a tendency of harsher sanctions from student justices than from administrators.

"The discrepancy (in the sanctioning) may be due to the fact that members of the student court haven't [illegible] the broad life experience which shows them that everyone makes mistakes from time to time," he said. "I think that makes them less tolerant of those [illegible] who may make mistakes while students at the University."

Donald Ranney, a senior who appeared before the Main Court on DUI charges, said he picked an administrator to ensure a fair hearing.

"I really didn't like the idea of dealing with (student justices) in these circumstances," Ranney said. "I figured they wouldn't be as fair."

But William Bracewell, director of Judicial Programs, said people who would say the justices are less tolerant or unfair just don't know the justices very well.

"(Such people) are looking for simple answers to complex questions," Bracewell said.

Jeff Rothman, an Athens attorney, has a different idea of why the student justices are harsher. He says it's due to the lack of sanctioning guidelines.

"There is a need for some sort of guidelines," he said. "That's fundamental in any sort of judicial process."

Rothman said the lack of parameters is scary for the attorney and his client, because they have no idea what sort of sanction to expect.

"If (the lack of consistency) sends any message, then it's that there is a lack of guidance from above," he

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STUDENT JUDICIAR

JUDICIARY: Members don't see hearings as court of law

From page 1

In ACC Municipal Court, a first DUI offender is charged with a misdemeanor. State guidelines dictate 10 days to 12 months jail time, which may be turned into probation by the judge, and a maximum $1,000 fine. According to court records, Municipal Court Judge Steven C. Jones consistently gives 10 months probation and a $385 fine to these offenders.

For a second DUI offense within five years, the state penalty is 90 days to 12 months of jail time, though all but 48 hours may be in the form of probation, and a maximum $1,000 fine. Jones generally gives these offenders 10 months probation, a $686 fine and requires them to attend a victim impact class, a form of counseling.

William Bracewell would not comment on the inconsistencies which exist between the Main and Administrative courts.

Blake Martin

Jones said consistency is an important part of a judge's job.

"You're not going to be a computer, you have to look at each case separately," Jones said. "But consistency has to do with fairness."

Yet, consistency is hard to find in University DUI cases.

Timmons, who sat as a Main Court justice in 1988, now represents clients before the Student Judiciary and knows the system.

"You'd better expect that students are going to be harder on you than administrators," he said, adding that he would "normally advise" an administrative hearing because of the lesser sanctions.

In response to Timmons' advice, William Bracewell, director of Judicial Programs, said, "I guess that's what (attorneys) get paid to do."

Blake Martin, chief justice of the Student Judiciary, said she didn't have a problem with the inconsistent sanctions and challenged the comparisons as "apples and oranges."

"Each case is different," she said. "You have to look at the individual circumstances of each student and base a decision on that."

Student justices, she said, don't have to follow guidelines because they're not a court of law.

But Timmons said the Student Judiciary only uses this rationalization to get around writing and following guidelines.

"Just because the exception is written into the handbook that 'we are not a court of law,' that has come to outweigh the concept of fairness," he said. "It's no saving grace to say 'we're not a court of law.'"

From the other point of view, Bracewell said he has seen no indication that guidelines are needed.

Timmons added that he thinks students do not need to appear before both Municipal Court and Student Judiciary on DUI charges.

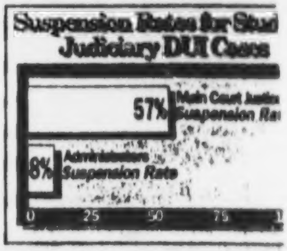
"All conduct on campus is subject to these disciplinary procedures and it really isn't necessary," he said.

But Bruce said it is the job of Judicial Programs to create an environment conducive to education.

However, she said she finds the suspension rates "interesting" and she had not realized the inconsistencies existed.

"Certainly, I think we need to explore why the differences are there," Bruce said. "We need to address why it is inconsistent."

Bruce said knowing that the student justices suspend more frequently than the administrators will not change the way she hands down sanctions.



Bracewell said he was neither surprised nor impressed by ference in sanctions.

"I suspect that all those decisions are right," he said. "Based percentages), I can't comment on the differences. I don't have enough to comment."

But problems with inconsistent penalties are apparently no the University.

Clifton Pannell, an associate dean of Arts and Sciences, said consistent sanctioning was one of the reasons University Council move academic dishonesty hearings from Judicial Prog Academic Affairs last summer.

"(The percentages) are interesting," Pannell said. "I didn't k inconsistencies were (happening) here also."

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DISCREPANCY: Lawyers, justices disagree over Judiciary's role

From page 1

Mark Coburn, a third-year law student who represented himself before the Main Court in January, said the student justices are just looking for something to put on their resume.

He said he would have been found innocent if the justices had thoroughly read the police report and discovered that the person with him the night of the incident was the one who was guilty.

"If (the justices) cared they would have done a better job," he said. "They just care about their resumes."

Bracewell said he disagrees

Blake Martin, chief justice of the Student Judiciary, said the justices must care about more than their resumes because of the time involved in the organization.

"There are too many other organizations that students could get involved in if they wanted a resume filler that don't take up as much time," she said.

Athens attorney John Timmons, who was a Main Court justice in 1988, said the justices just don't have an overall perspective of the "bad stuff" that goes on at the University.

He said he also sometimes wonders whether anybody on the court cared," he said. "All they wanted was a conviction."

But Martin said lawyers, such as Timmons, have a skewed view of Student Judiciary.

"Our objectives are different from a court of law," she said, describing the University's court as a body which must protect and serve the University community.

Judge Steven Jones, who presides over Athens-Clarke County Municipal Court, emphasized how important consistency is in his court.

"No person can be a judge if they're not fair," he said. [illegible]

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Chairman McKEON. Thank you.

Mr. Goodling.

Chairman GOODLING. Thank you, Mr. Chairman.

I have a couple of questions I will get at very quickly. First of all, to Mr. Longanecker, current law requires that all participating institutions submit a copy of their statistics to the Secretary upon request. The Secretary then reviews it and reports to Congress by September 1 on campus crime statistics.

I am concerned about the sampling procedure simply because I cannot believe it is a burden on the colleges and the universities for all to report since they have to have all of the statistics anyway. The burden becomes putting it in an envelope and putting a stamp on it and mailing it, and I have tried to emphasize that, that I thought that sampling is not sufficient if we are really going to get a handle on what is going on out there.

Can you react to that?

Dr. LONGANECKER. Sure. I understand and appreciate your position. I have been obviously part of the group that advises the Secretary on his response.

As you are aware, the law requires this one-time report, which we have not yet completed. As we began that report, we wanted that to be as useful a report, complementary to what is going on, as possible. We felt that the best way to do that was to do a report that provided strong benchmarks of where campus crime was, where it was in this country because it is going to be a one-time report. It is not an annual reporting.

Had we collected all of the data, essentially it would have been very expensive and not as productive. By doing a sampling technique, we can with much more efficient use of department resources be able to provide essentially the benchmarks that are necessary.

Chairman GOODLING. You are saying expenses on the department?

Dr. LONGANECKER. The department side. We are able to use our resources much more effectively.

There is now an annual national gathering of those data. The Chronicle of Higher Education essentially does that on an annual basis. So our having essentially replicated that would have been redundant, would have, given limited resources, limited our ability to do a complementary study rather than a redundant study. We felt we could add more value to the system by doing the kind of study that we are doing.

Chairman GOODLING. And the second question deals with FERPA.

Dr. LONGANECKER. Yes.

Chairman GOODLING. You and the Secretary are surprised, as I am, over the misunderstanding of this. What has the department done to make sure that colleges and universities understand and have it clearly in their mind what is expected?

Dr. LONGANECKER. The recent "Dear Colleague" letter makes it very clear that FERPA is not an avenue for not reporting campus crime. All of the proceedings that are done through FERPA still must be reported as crimes.

It is true that that does not require the reporting of how and who and when, but it does require the reporting, as all other campus crimes must be reported, of those for the statistics that the institution includes as part of the Campus Security Act. So there is no inconsistency from our perspective between the Campus Security Act and the FERPA requirements.

There are the other issues which the Secretary has recognized with respect to FERPA, about whether, in fact, that law provides the level of protection for the victims of crime that is necessary, but that is an important, but separate issue from the Campus Crime Reporting Act.

Chairman GOODLING. Mr. Tuttle, can you tell me what information is reported on your daily update of reported crimes at the University of Delaware? You post them electronically on the university's Web page. Is this something you do voluntarily or is there a State law that requires this?

Mr. TUTTLE. We do it voluntarily. Delaware does not have an open campus police log at this time, and it is something that we started some time ago on paper with circulation to key administrators around the campus, as well as to the student press. It includes every incidence reported to our police department, some of which are actually not crimes. So it includes records of fires and everything on up to the most serious of offenses.

It does not include any names currently. We do indicate if an arrest has been made, and we will release the name of someone arrested to the media if they ask. So that would be an easy change if we were required to include that.

And it is posted, as I said, electronically every day. Our campus is electronic. Every residence hall room has a connection directly to our computer system. So whether you are on campus or off, it is very easy to check, and it is on line for a year. So if you want to scroll back and look at previous dates and see what was reported, it is there.

We do not include specific room numbers, just the name of the building, the type of the crime, and what was stolen, that sort of thing.

Chairman GOODLING. I see I have a yellow light, and my questions to the next two, I guess, will be comments.

Dr. McGuire, I would imagine that your situation is more like I used to think it was. The crime comes from off campus onto campus rather than what I have discovered with many of the universities and colleges.

Ms. MCGUIRE. Yes, sir, that is correct.

Chairman GOODLING. It is all student against student, but I do not imagine that is similar to your situation.

Ms. MCGUIRE. Well, no. Thankfully we do not have much student-on-student crime except for occasionally petty thefts that occur in residence halls that we deal with.

We are concerned, however, with both the neighborhood crime situation, and also the fact that we have a wide range of visitors to campus. One of the things that is important to keep in mind is all of our campuses are open. So it is not always possible to tell who is who. So we must be vigilant both with students and their guests, but, thank God, we have a good track record with our students.

Chairman GOODLING. And just a comment, Ms. Carlson. I would agree. I believe we have to do something in relationship to discipline records because I think if the public would understand the wrist slapping and the pat on the back kind of business that goes on in colleges and universities, the public would become outraged, and something more would be done in spite of the trustees and in spite of the advocacy groups and whoever they are that help to cause presidents of colleges and universities all sorts of headaches, but they need their money.

But I think that we have to do something. What we have to do I am not sure at this point.

Chairman MCKEON. Thank you, Mr. Chairman.

Mr. Becerra.

Mr. BECERRA. Thank you, Mr. Chairman. I love the way you roll those Rs.

I have a few questions because I am concerned that while we may be trying to do something that is good, we may fail in the practical effort to do so.

Ms. McGuire, you mentioned that in some cases this may be cumbersome or costly for an institution to have to comply with these reporting requirements in this legislation. Any sense of what an institution might have to pay to do the specific reporting required by the bill to report as it says here the chronological crimes against person or property reported to its police or security department, the date, the time, the location of such crimes, and if an arrest has been made, the names and addresses of all person arrested and charges against such persons arrested?

Ms. MCGUIRE. Well, it is hard to estimate at this point because we do not know exactly what form that will take. We do post notices of all incidents on campus on a bulletin board, but it is my experience certainly on our campus where we have 32 security personnel, but they are all out on patrol, that there is very little opportunity other than the security chief himself to sit down and actually do compilations, notices, record keeping, that sort of thing, and as trained police officers, they are used to doing some of the paper work and so forth, and they are happy to do it. They are not opposed to doing it, but that is just not where they are at in terms of crime prevention. They would much rather be out on the campus doing the crime prevention job than in house doing more record keeping other than what we are already doing, which is quite substantial.

Mr. BECERRA. And it is not difficult to do the tabulations and the record. It is just a matter of having to have someone do it, and my concern is that apparently there are about 8,000 institutions that at least back in 1990 the legislation that was first enacted to deal with this issue identified those institutions that receive Federal funding. So 8,000 times the cost for each institution of doing this, and as I understand it, the legislation does not provide any institution with any dollars to try to implement this. So it would be a cost each institution would have to bear, which, Mr. Chairman, I would remind this Congress that would be an unfunded mandate. If we are going to pass something like this, certainly we should be prepared to give an institution the moneys it needs to make sure it can fulfill its reporting requirements.

Another question that concerns me is I happen to know many instances where people have been arrested, but were ultimately never charged, and in fact, the charges were dropped in some cases against individuals and someone else became a suspect and was later arrested and in some cases tried and found guilty.

This legislation requires that anyone who is arrested be identified. It does not mean that anyone who is arrested but later found to not have committed the crime or later charges are dropped no longer be identified in the log or be dropped from the log.

My concern is there are a lot of folks, especially in many cases minority men, who are arrested, and your name would now be on a log as having been arrested for a particular crime. Do any of you on the panel have a concern with identifying people in a log who may ultimately have never committed a crime or just under circumstances at that particular time have been arrested by the police?

Mr. TUTTLE. If I might address that, the record is already publicly accessible in every State. What this would do is change the avenue one might use to gain that information. In other words, instead of having to go to the court and say, "Let me see today's records," you would just look at it on the campus daily log.

Mr. BECERRA. That is correct, but the courts keep it because obviously the police have to file all of these records of the people they arrest in the process of conducting their duty, but at this point you are now reaching a different stage in the game where you are saying now institutions will hold a log of people who have been arrested, crimes have been committed, and the implication is that some of these people committed the crime.

So to some degree you are going to have your name associated with the crime whether or not you have committed that crime.

Mr. TUTTLE. But the record is already publicly accessible. Anyone who walks in now could say, you know, "Tell me who was arrested for this."

Mr. BECERRA. But that record also indicates what the circumstances were. The record would also indicate who ultimately was arrested and tried and convicted of that crime, correct?

Mr. TUTTLE. At some point there would be an indication of conviction, but there is often a long time span in between.

Mr. BECERRA. True, but the record still provides a full story, where as this log would just provide an arrest for a crime and a name, and it would lead one to conclude that without knowing further what happened maybe five years ago that this arrested person may have committed a crime.

There is another concern I have. The bill says that each institution shall participate and any program under this Title which maintains either a police or security department of any kind shall do the reporting. Do any of you have any comment if the word "maintain," if an institution maintains a police or security department, if that includes institutions that contract out a police force?

Mr. TUTTLE. My opinion would be that it would.

Mr. BECERRA. And when you contract out, you are not responsible for those employees of the police force though, are you?

Mr. TUTTLE. Well, you can never contract out your obligation for campus safety. So if you have gone through a third party to provide the personnel, you still have the obligation to report under the Campus Security Act. So I would say this would still apply.

Dr. LONGANECKER. Well, from the department's perspective, almost always the institution is as responsible as the third party payer in responding to compliance with Federal law.

Mr. BECERRA. So there probably would be no problem with institutions that do not have their own campus security, but perhaps use the county sheriff or some other police department.

Okay. Thank you, Mr. Chairman.

Dr. LONGANECKER. If I could say something, keep in mind not all campuses are what we think of as a campus. Of the 7,000 institutions, that includes institutions that might have a few students to ones that have 46,000 students or whatever. I mean we are talking about a lot of small, proprietary schools that do not maintain a security force at all, but would be five or ten students, an instructor, all the way up to an Ohio State University with over 50,000.

Mr. BECERRA. Thank you.

Chairman MCKEON. Thank you.

Mr. Souder.

Mr. SOUDER. I first have a question for Dr. McGuire. Do you believe that if we had additional reporting that there would be some deterrence to crime? In other words, if people thought that there was more likelihood of more things being reported, if students were more aware of all that was going on around them, including the blocking open of doors and things like that, that there would be a deterrent effect?

Ms. MCGUIRE. No, I do not believe that reporting has any deterrent effect on crime, which is why I do not feel this particular proposal does much. Indeed, we do extensive information and safety sessions on our campus. I know it happens on other campuses in the District, and the same behaviors are repeated time and again.

We know that most crimes are crimes of opportunity and crimes of circumstance. The perpetrators of the crime are certainly not deterred by the fact that the instance of the crime will be reported, and even in cases of student-on-student crime, the fact that it will be reported is certainly not a deterrent because the circumstances usually are quite different, and the reporting is the last thing they are going to be thinking about.

In terms of student behavior itself, we can tell them and tell them and tell them, and we never ever want to say that the students are at fault if the crime is committed, but in fact, we have found repeatedly that just notifying students about the likelihood of crime in a particular part of campus and so forth does not prevent them from going there.

And so that is where I stress crime prevention. Reporting after the fact simply is evidence of our failure, but we need to put the emphasis on crime prevention up front, which is to keep perpetrators of crime off campus and to try to keep teaching the students how to improve behaviors that will avoid crimes of opportunity.

Mr. SOUDER. Well, first off, I find that an incredible statement. Secondly, and I just want to make this comment, there is one sentence in your statement that while I think it is true, I think we do have to look at prevention and deterrence as well, and you said, "Our first concern should be the victims," which I agree with. We need to be very cautious and protective of their names and so on, but I think they would share the concern that not to have themselves be a victim again and not to have other people and at least have something come out of their experience, which means that other people would not go through similar victimization.

I have a feeling that probably Ms. Carlson slightly disagrees with what you just said, and I have a couple of questions. To some degree just post a notice, it may be true, it is not a deterrent, and to some degree the press coverage on campus and off campus, I think, does give people indications on behavior changes. If they hear in their dorm that three people blocked open the door and as a result of that a couple of people got raped, I would assume that that might change behavior in that dorm as far as blocking doors open.

And if you could comment on that briefly, and also I was intrigued by your statement. I think it was the University of Miami where they had five reported and 119, did you say, in their information? What kind of crimes were those? Why would there be such a discrepancy? If those had been known in the campus media and off campus and the parents, would that have changed behaviors at that university do you believe?

Ms. CARLSON. Are you asking me?

Mr. SOUDER. Yes.

Ms. CARLSON. The incidence was at Miami University in Ohio, and there is in my written testimony a letter from the student newspaper editor who found the report that showed the difference.

I am not exactly sure why there was such a huge difference, but we have found that just about every time anybody looks into the statistics, that the statistics that are reported are invariably lower than any other source of information.

Sometimes there is an issue of definition. Sometimes it is hard to say, but as far as we can tell, the Department of Education has not been very vigilant in insuring that the statistics that are reported are accurate.

I am not sure what else. If you could rephrase perhaps your other question.

Mr. SOUDER. I was wondering whether you felt that the publication of the statistics and access to them by the media would serve as a deterrence.

Ms. CARLSON. Oh, yes. I think that we have found that knowing about crime, when and where it occurs, is the only way that you can avoid being victimized, and the media has a special obligation to report on these crimes so that people can change their behavior in order to avoid victimization.

Mr. SOUDER. One other quick question for you because I have one other question for Mr. Longanecker.

Do you see any difference or have you heard through different journalists that there are concerns about particularly less than accurate reporting on athletes?

Ms. CARLSON. Well, we have numerous examples of arrests involving athletes that are hidden in these secret court systems.

There have been several court cases almost all of which involve athletes or other prominent members of the campus.

We think that, frankly, the schools are using these secret courts to hide just those sorts of embarrassing incidents.

Mr. SOUDER. Mr. Longanecker, I am sorry I missed the early part of your testimony. I was intrigued by the question that I think was in Mr. Tuttle's statement about the differences in State and Federal law and whether you see that in very many cases, where the reporting categories would be different between the State and Federal, and whether that has been a problem.

Dr. LONGANECKER. Yes, and in fact, one of the comments that we had with respect to the proposed legislation is not so much between the conflict between State and Federal law, but in that case what would be a conflict between Federal laws, different requirements for reporting different crimes, not the same and similar.

So if there is going to be law, we certainly would want to make sure that it was consistent, Federal law to Federal law, but there are differences within what a State will require, and there is nothing you can really do to tell States what they have to do in their laws, and what we have required in the Campus Security Act or might in new legislation, that would be a very important feature for us to take into consideration.

Mr. SOUDER. Have you seen that in three States, 10 States, 30 States? What kind of level of a problem is that between the State and Federal?

Dr. LONGANECKER. You know, I am not well prepared to respond to that. We do not have all that many States that have the open crime statistics law right now. We have States like Delaware where the institutions are doing it on a volunteer basis, and so we are all over the map on that one.

Mr. SOUDER. That would be helpful to know for the basis of costing.

Dr. LONGANECKER. We will work with ICLEA and get you some information on that.

Mr. SOUDER. Thank you, Mr. Chairman.

Chairman MCKEON. I believe we have seven States that do have that law at this time.

Mr. TUTTLE. The open law.

Chairman MCKEON. The open law.

Mr. TUTTLE. There are about a dozen that have some version of a Campus Security and Criminal Awareness Act, as well.

Chairman MCKEON. We can gather more information on that. That is the purpose of this hearing and others.

Mr. Roemer.

Mr. ROEMER. Thank you, Mr. Chairman.

I am very interested in this legislation for two reasons. One, as a father of two children, I would certainly want to know if there was a problem at a university that I was contemplating sending my children to, and as a father, my heart goes out to those in the audience, the Clerys and others, that have experienced this tragedy.

Second, as a Representative in the United States Congress, I represent nine universities in my district, including the University of Notre Dame and St. Mary's College, an all women's college similar to Trinity College, a Catholic college. So I want to find a way that this legislation works to both prevent crime, to deter crime, but also to make sure that we do not discourage reporting crime, and that we also do not do things such as make our colleges and universities spend money on clerks and bureaucrats rather than on security officers and police officers who will catch the criminal.

My intention then is to ask you some questions about how do we modify. How do we improve this legislation to accomplish those goals?

Certainly I think one of the first things we would do would be, and I think Ms. McGuire had the statement in her opening comments, that you currently have what, a $12 million budget?

Ms. McGUIRE. Yes, sir.

Mr. ROEMER. And you spend what percentage of that or what portion of that on security?

Ms. McGUIRE. Well, we spend about a total of $632,000 a year. It is about 3 percent.

Mr. ROEMER. About 3 percent, and that has been going up over the last years?

Ms. McGUIRE. Yes, it goes up every year, absolutely.

Mr. ROEMER. How much does it go up every year?

Ms. McGUIRE. It can go up anywhere from $25,000 to $100,000, depending on whether we decide to add one more person on each shift, whether we add more security devices, for example, more lights, more campus phones, key card systems, and so forth. So every year we decide on some capital investments to continue to improve campus safety.

Mr. ROEMER. And would this Act make you or encourage you or force you to spend more money on deterring crime, preventing crime, catching the criminal, making sure that what happened to the Clerys does not happen to somebody else, or would this as written make you spend more money on keeping records and hiring clerks?

Ms. McGUIRE. Well, as written, it focuses on keeping records, hiring clerks, doing that sort of thing.

Mr. ROEMER. How could we then improve it so that we can focus on giving you the latitude and the resilience to spend this money so that we do what we all want to do here?

Ms. McGUIRE. I think the most advisable thing would be to try to encourage the department to enforce the laws that already exist rather than to add one more set of record keeping requirements that seem to duplicative and additionally burdensome, especially for our personnel who are not lawyers. They are not regulators, and they view every new piece of legislation as a significant addition to their duties already.

I think we need to find out already what is going on. If there are enforcement problems with current law, let's get on it. I fully subscribe to that, rather than adding one more reporting requirement that does not take us closer to stopping these crimes.

Let me add most people in my position and certainly me, I do not need an Act of Congress to nudge my conscience and my action to keep my students safe. I live for my students. It is my whole life, and so I believe that we are, in fact, doing far more than any piece of legislation can do, and I worry that, in fact, my staff is continually burdened by the addition of Federal regulations that always get in the way of them doing their job.

Mr. ROEMER. Ms. McGuire, let me interrupt because I only have five minutes. Let me ask you another question.

This law says that police or security department, the date, time, and location of such crimes must be reported against persons or property. Would the location of such crimes in an all women's college such as yours and where I represent, such as St. Mary's, would that have an impact of deterring young women from reporting a crime such as a rape?

Ms. MCGUIRE. Yes. We are a very small campus, and so if a crime is reported in a particular building on a particular floor, for example, it would be easy to identify who the student was.

Mr. ROEMER. Would you suggest then that we drop time or location out of this, but maintain, again——

Ms. MCGUIRE. I would suggest some kind of language that would definitely shield any kind of sex offense victim from being identified, whatever it takes. That would certainly help.

Mr. ROEMER. Thank you.

Mr. Longanecker, why is it that you are not doing what you were told to do, and, secondly, why isn't this information available from seven States that already have this law and 12 that Mr. Tuttle indicates that have some version of it? Why aren't we better able to discern what is working and what is not since we have, as Thomas Jefferson noted, laboratories of States already working on this issue and gleaning good information for us?

Why aren't you able to give us more information on this?

Dr. LONGANECKER. Well, we actually believe we are complying with the law, both the spirit and the fact of the law, and we believe that higher education has come a long way since enactment of this law to come into compliance.

We are working hard to bring the institutions into compliance. Where we have complaints, we are following up on those complaints. Where we identify noncompliance, we are requiring compliance, and where we find——

Mr. ROEMER. How many have you identified as noncompliant?

Dr. LONGANECKER. Thirty cases.

Mr. ROEMER. Is there a penalty then once noncompliance is found?

Dr. LONGANECKER. No, we are not pursuing penalties unless it is flagrant or intentional noncompliance. What we are doing is working with the institutions to bring them into compliance.

Mr. ROEMER. Have the 30 percent then worked toward compliance?

Dr. LONGANECKER. Yes, to the best of my knowledge, we have had working toward compliance in all of those cases, with the exception of one of those that is an open case, and we have not completed.

I do not mean to imply by that that there is intention or flagrant noncompliance, but it is the most serious charge that has been levied, and it is the one we are spending the most time on.

Mr. ROEMER. Thank you.

Mr. Chairman, just let me conclude by saying that this is a problem that I hope that we all work together, Democrats and Republicans and parents and Representatives and university presidents and victims in the audience.

My father served as Dean of Students at Notre Dame for a number of years, and I know that when he got a call at three o'clock in the morning, there was nothing that shattered his life more than finding out something had happened to one of his students at the University of Notre Dame, where he went to school, where his father taught, where I went to school. It is like family, and I think we all want to make sure that our own children are protected, that at our universities we have these protections, and that when we put a law on the books, that, you know, that is followed and we try to improve and modify this law as well, too.

Thank you, Mr. Chairman.

Chairman MCKEON. Thank you.

Mr. Green.

Mr. GREEN. Thank you, Mr. Chairman.

Dr. McGuire, when you were talking about wanting officers patrolling and solving crime, I work a lot with the Houston Police Department, and for 25 years I have heard their complaints because they have to fill out reports instead of being out on the street, but those reports also are useful, I mean, obviously for their supervisors and people to see where our problems are. I am sure we want as much time on task, I guess, to use some euphemisms from our committee here, by those officers.

I guess the only question I really want to ask is: why should we treat a crime that is committed in a dorm on the third floor differently from a crime that was committed across the street in student housing in an apartment that is not on the campus?

If the Houston Police Department and University of Houston investigates a rape, for example, across the street from the campus, they have certain reporting requirements and certain safety requirements. Why should an on-campus rape be treated any differently?

And let me say I have two students at universities in Texas, the University of Texas and Texas A&M, and they are living in off-campus housing now, and I was wondering why should we treat that differently? We are dealing with adults. These students are adults. In Texas, if you commit a felony over the age of 17, you are treated as an adult, and I would assume that is what we are dealing with here with most of the students in higher education facilities.

Why should it be different?

Ms. MCGUIRE. I absolutely believe it should be treated the same, and anyone who commits a felony on my campus I hope will be arrested and prosecuted to the fullest extent of the law.

I do not think that is particularly the issue here. I think that the issue of arresting and prosecuting and having full disclosure of the felons I absolutely subscribe to.

There are a wide range of activities that occur on a college campus, as Mr. Tuttle and the campus police chiefs will tell you, that are in a somewhat more gray area because they are student conduct issues, and separating conduct from crime is one of the problems that our campus security officers deal with all of the time, and the difference between criminal prosecution versus disciplinary proceeding.

I think the colleges have to address these issues very seriously. I think they are addressing the issues very seriously. I think there should be no quarter for those who are committing crime on our campuses.

That is slightly different from what the issue is that is in this bill, which is more reporting requirement in addition to what we already have. I believe the current Campus Security Act is a good law, and I think that it should be enforced, and if we enforce that to the fullest extent, I think your intent would be met and that we do not need the additional law.

Mr. GREEN. Are we saying then that if the Houston police officers investigated a crime, we are going to require by passing this bill more reporting than we would for a local law enforcement agency, more availability for freedom of information than would be required if that crime was committed off of campus or that incident?

Because, again, it may be a student discipline issue if it is public intoxication, but again, if it was across the street from the campus, it would be a misdemeanor, and it would be recorded. So, you know, again, we are still talking about a crime being committed whether it is a felony or misdemeanor.

Mr. TUTTLE. I think I can answer that. As I see this law, it is imposing the same sort of public disclosure requirement on campus agencies that does currently apply to public sector agencies nationally.

As I noted in my written testimony though, there is a financial implication, particularly for smaller institutions where, as was noted, the absence of clerical staff is the norm. There typically are no people there except officers, and that is a consideration.

On a campus like that, compiling a written report that people would have to stop into the police station to read probably would not get the information out very well. You need to rely on the campus media, and I would suspect, again, in a small institution that is a weekly publication.

So that is why I ask that there be flexibility included in this to allow us to do things electronically or whatever may come along in the next few years so students can have ready access as individuals and not have to depend on making a trip to the police station.

Mr. GREEN. Anyone else?

Okay. As a follow-up, again, we have the same examples of small cities and small municipalities that may only have one officer who have still that same problem that they have to deal with, but if you take the assumption that you are certified peace officers, whether you contract out or not, you have the arrest powers. You have the detention powers that a peace officer does. Why shouldn't you also comply with the other requirements that also give you that peace officer status?

Thank you, Mr. Chairman.

Chairman MCKEON. Thank you, Mr. Green.

Ms. Woolsey.

Ms. WOOLSEY. Mr. Chairman, I am sorry I had to leave to go to the floor and come back.

I do have an open question, and my question is is there a better way than these open logs to protect our college students that you would suggest.

I would like to start with Ms. McGuire.

Ms. McGuire. Yes, I do believe, first of all, the current law, as I have already said, is a fine law, and I think that rather than creating new law before we have already done the complete enforcement of the old law simply complicates the situation rather than allowing the law that current exists to flourish and to be well enforced.

Second, as I have said repeatedly throughout this testimony, I do not believe that disclosure of numbers of crimes really gets at the heart of the problem that we are trying to fix from my particular point of view, which is both an education and prevention point of view and a law enforcement problem.

I believe we need to be as vigilant as possible, given the different circumstances of each college, and I should mention that every college has a different set of circumstances just like every community where police are has different circumstances, and Federal law is not necessarily the best mechanism. State law and municipal law is sometime far more effective to address some of these.

I think we need to be extremely vigilant in improving campus security practices all the time, and we need to be extremely vigilant in continuing to improve the education of our students and staffs and faculty of all ages.

I believe that the best prevention technique we can have is a well informed student body about how to protect themselves from crime. Now, does disclosure do that? It is a very limited extent if it has not happened to them. Many people, and it is not just a youth thing; it is, I believe, a people thing; unless it happens to them, they sometimes ignore the warnings which is why crime happens in many cities all of the time.

I think it is a constant vigilance thing that the campuses must undertake, and, indeed, we take it very, very seriously, and crime prevention education is a major piece of what our student life and student services and campus safety personnel do all of the time with our students.

Ms. Woolsey. Would anybody else like to respond to this?

Dr. Longanecker. I would like to respond to that. I would tend to agree with Dr. McGuire. We believe that implementing the existing law, giving the community the chance to come into compliance with that, us to find our legs in being able to make that law work will achieve better law than continuing to change, if you will, the target so that people are not quite sure what they should be shooting at.

The current law requires timely warning of serious crimes to the community, and so under that we should be able to achieve much the same objectives that the open crime log law would require.

Ms. Woolsey. Okay. Thank you very much.

Chairman McKeon. Thank you, Ms. Woolsey.

Mr. Williams.

Mr. Williams. Thank you, Mr. Chairman.

When we first began to consider this issue, I believe it was in 1990. I tried to get at the answer to a question that was troubling me then and it still troubles me now as we are considering this new legislation today, and that is the appropriate role of the Federal Government in this effort.

Members of Congress, like all Americans, are saddened and sorrowed by crime on campus and particularly when it turns so violent that we see genuine tragedies, human and family tragedies, and Members of Congress, like all Americans, would like to do something about that. We find ourselves in a role to actually move to try to do something about it.

But the question is: if it is not within the proper purview, jurisdiction, and role of the Federal Government to do something legitimate about it, will we only make the matter worse by moving into the arena?

You all know how the Federal Government, the Congress of the United States, that is, talks about crime. We huff and puff about it a lot, but consider this. As you know police forces, we do not even have one. We have the FBI and the ATF, but we do not really have what Americans view as a police force.

We have no jurisdiction over local and State matters of crime. We have no jurisdiction over campus crime, none. In fact, if you note the legislation now on the book, it does not punish criminals. Its only punishment is for the schools that do not comply.

It shows you how awkward and obliquely we have to come at these problems from here because we cannot solve them from here. I suspect we cannot solve them from here.

So let me ask the two representatives of schools, as well as the campus security advocate, to address this problem some for me. Is this an appropriate Federal arena? Can we really help solve this problem as much as we would like to here from Congress and Washington, DC?

Whoever would like to go first, please.

Mr. TUTTLE. Well, to reiterate slightly what I said in my testimony, the availability of information today about campus crime and about campus security practices and procedures so far surpasses what was available to students and their parents six or seven years ago it is just amazing.

There are other aspects to the law that was passed in 1990 that we are not addressing here today, and they go to the publication of security practices and policies. I believe in some ways that is more helpful than the crime numbers.

The requirement to provide the timely notice is also, I think, a very important part of the law, that you need to warn people on campus when crimes have occurred, and without the Federal legislation in this area, I think we would see very inconsistent programs from State to State.

Now, the Crime Awareness and Campus Security Act has really required colleges to face up to the fact that crime is everywhere, that students and their parents are becoming much more informed consumers about that, and they really are beginning to ask: what are you doing about it?

And I think it has freed schools to begin to do things about it, to spend money that might otherwise not be spent because there is not any profit, you know, in it. It is also very difficult when you have limited resources to cut anything from the academic program and give it to something like security.

But this law has certainly raised awareness of the issue, and I think enables schools to make that tough choice.

Ms. McGuire. Mr. Williams, from my perspective, we are happy to comply with the law, this law or whatever, and we will do so. Unfortunately, it probably will not make a dent on the problems that I face every day in maintaining a safe campus here in the District of Columbia. You could do far better for us by helping us rescue the District of Columbia from its current situation and the police force especially, but I think that also is illustrative.

I know, on the one hand, Congressman Goodling certainly implied that we were sort of unique. On the other hand, I think it illustrates the fact that it is a local issue. Every campus is in a different jurisdiction, and every campus has a different set of relationships both in terms of the students and the problems on campus and in the police relationships off campus, and therefore, it is far more sensible to handle these matters at the State and local level than at the Federal level.

At the Federal level it is simply one more of the 7,000 Federal regulations, now 7,001, that we will have to keep track of and comply. We will do it. We will do it because we believe in what you are trying to do. We endorse what you are trying to do, and we applaud, but we would love to have you come sit with us and see the real problems we face.

Mr. Williams. In the few seconds I have remaining, Ms. Carlson.

Ms. Carlson. Well, I think it is appropriate to have a Federal requirement for openness. I think the First Amendment sets forth the whole situation where people in a democracy need to have information about their government and how their government functions in order to make judgments as to how satisfied they are with their governance. Without information they cannot make good judgments and exercise the rights of the citizens.

So I think that it is appropriate to have a Federal requirement that would insure uniformity of information available to the American public.

Mr. Williams. Well, thank you, the three of you. That has been helpful to me. Thank you.

Chairman McKeon. Thank you.

In listening to the questions, I thought I heard you, Ms. McGuire, say that the present, current law is not now being enforced. Dr. Longanecker, I thought I heard you say in response to a question by Mr. Roemer that you were enforcing the law.

Could you, Ms. McGuire, maybe give us an example of where they are not? And then I want to hear his response to what they are doing.

Ms. McGuire. Well, Mr. McKeon, please let me clarify because I think I was responding to a sense that I received from one of the questioners that perhaps it was not. I believe it is being enforced from our perspective, certainly on my campus, and we are complying fully.

If, however, there is any suspicion that it is not being enforced, then I think we would applaud and support efforts of the department to step up enforcement if that is what this committee needs and Congress and our constituents need.

Chairman McKeon. Okay. I thought I heard you say it was not being enforced and why have another one if we were not enforcing this one.

Ms. McGuire. I am glad I could clarify.

Chairman McKeon. Did I hear you, Dr. Longanecker, say that you are enforcing this law?

Dr. Longanecker. We are enforcing this law. We are learning ourselves as we move into the law how to do a better job, just as I think the institutions are learning how to do a better job of providing campus security, but we believe we are enforcing the law. We are certainly dedicated to that.

As I indicated, our general thrust here is somewhat different than what we do in the financial assistance. In financial assistance, a lot of our thrust is on compliance with areas where we suspect fraud and abuse, where we have strong evidence there is potential fraud and abuse, and we go in reasonably heavy in those areas.

Here we believe that it is in the Federal Government's interest and the higher education community's interest to basically work with the community to bring people along. We do not find the same resistance.

I think our perspective on the world is quite different than the journalists' perspective. We believe most people in higher education want to comply with this Act. If they are not, it is probably out of ignorance, not out of intention, and so we want to work with them to bring them into compliance.

Chairman McKeon. It is interesting to me how you interpret that. I notice that some areas of government are very heavy handed in enforcement, and it sounds like you are indicating in one area of your responsibility you are somewhat heavy handed. In another area you are somewhat more understanding.

Dr. Longanecker. Educational.

Chairman McKeon. Okay.

Chairman Goodling. Mr. Chairman, are you suggesting that we reverse the Secretary of Education and Secretary of Labor for a couple of months or something? Is that what you are suggesting? [Laughter.]

Chairman McKeon. Well, let me ask another question. Are you getting any reports from any schools or from any people that have complained to you or reported to you that perhaps you are not carrying this out or there are areas or schools that are not complying?

Dr. Longanecker. I would put our reports into two categories. We have the one now fairly notorious report of problems at Moorhead State University, which we have investigated and are in the process of developing our program review on. That is the first serious—no, I do not want to say that—that is the first official complaint we have had from a customer on this.

We have through discussions with folks like the Clerys and others had evidence of institutions that had not been in compliance, but generally those were not complaints that we should follow up. They were generally part of discussions where even in most cases there the institutions had the discussion indicated that upon working with the institution, they had come into compliance.

Now, today I am hearing about some other institutions of which I was not aware. We will look into those because that is our job.

Chairman McKEON. What is the difference between a discussion and a complaint?

Dr. LONGANECKER. A discussion is an example of an institution where they say it is clear this institution was not in compliance, but we have been working with them, and it looks like they are coming into compliance. Well, at that point we do not have a complaint that we would necessarily see we needed to follow up on.

Chairman McKEON. Does it have to be something formal in writing?

Dr. LONGANECKER. No, it has to be, I think—no, it does not have to be formal in writing. A call to us, an inquiry to our regional offices would be more than sufficient, but it needs to be evidenced that there is sort of an outstanding problem that we should go in and investigate.

Chairman McKEON. You have not received any of those?

Dr. LONGANECKER. One, the one at Moorhead State.

Chairman McKEON. One?

Dr. LONGANECKER. I think we just got another one from Miami University of Ohio, it looks like.

Chairman McKEON. We are not trying to generate——

Dr. LONGANECKER. But after reading this testimony, we may have some others.

Chairman McKEON. That is amazing that you have had just one.

Dr. LONGANECKER. We have identified through the audits and through our program reviews other institutions that are not in compliance, but those were not complaints. Those were our own investigations. That was the natural product of our own process.

Chairman McKEON. That is the 30 that you mentioned?

Dr. LONGANECKER. Yes.

Chairman McKEON. Okay. Thank you very much.

I appreciate you being here today, and I know we have had some discussion about the 1990 law and some on the new proposed legislation.

I am sure there will be other questions that we have not had time to answer. If we do get those to you, we would appreciate your answers in writing, and we will submit them to the record. And, if you think of anything further that you did not get a chance to say today, we will keep the record open for ten days for your additional comments or anything else you would like to add to the record.

Thank you very much, and we will excuse our first panel now.

We will call our second panel now. First we will have Ms. Connie Clery, who with her husband founded Security on Company, Inc., and who have worked tirelessly to promote safety on college campuses.

Benjamin Clery, who is the Vice President of Security on Campus and editor-in-chief of the Campus Watch Newsletter.

Next to Mr. Clery is Christy Brzonkala. She is a student and the victim of campus crime, and she has come to share her story here with us today.

And our final witness of the day will be Margaret Jakobson, who last year filed a complaint with the Department of Education under the Campus Security Act. That is the one complaint.

Ms. JAKOBSON. That is the only one from Moorhead.

Chairman MCKEON. Okay, and again, you were here and heard our little discussion about the lights, and we would appreciate if you would please follow that, and we will begin first of all with Ms. Clery.

STATEMENT OF CONNIE CLERY, FOUNDER, SECURITY ON CAMPUS

Ms. CLERY. Good morning, Mr. Chairman and ladies and gentlemen of the subcommittee.

Thank you for the opportunity to testify on the Open Campus Police Logs Act of 1995, sponsored by Congressman Duncan of Tennessee and 27 of your colleagues.

I am sorry to say that my husband Howard is not here with me. This 10-year crusade has taken its toll on his health. Howard and I founded Security on Campus, Incorporated, after the murder of our beloved daughter Jeanne on the Lehigh University campus.

One million U.S. citizens are denied equal protection of the law. This is a double standard. These are residential college students who are denied immediate reporting of the types and places of crimes occurring on campus, the names of students charged by the campus police, deans, or judicial systems.

Remember students commit 80 percent of felonies.

Although the Student Right to Know and Campus Security Act of 1990 has improved security on many campuses, far too many campuses are not enforcing and expelling students using illegal drugs, not enforcing State's under age drinking laws, not even reporting rape and sexual assault cases and the names of students charged with these crimes to the potentially endangered campus community.

In a written report we have included examples of grievous omissions and commissions of the Campus Security Act. The colleges involved range from Brown University, University of South Florida, and University of California.

After hearing the various types of testimonies today, Security on Campus, Incorporated, would like to see the following amendments to the Higher Education Act.

FERPA privacy provisions should not pertain to charges of criminal activity, but only to academic grades and penalties such as academic cheating and plagiarism.

Federal scholarships and loans should be denied to students convicted of Federal drug law violations. Eighty percent of student felonies are student-on-student crimes. Studies show 90 percent of these felonies also involve illegal use of drugs and/or alcohol.

Colleges and universities should require student applications to reveal prior felony crime records. Currently many of these applications require substantial personal information, including charitable work done, hobbies, personal reflections on life, mores, and their fellow man.

Violations of the Campus Security Act should result in monetary fines levied by the U.S. Department of Education for each incident of noncompliance. The present penalty of withholding Federal funds is an atomic bomb that all colleges and universities know they will never be subjected to.

The above requests are not extreme. What is extreme relates to the following. Under age binge drinking is exploding on our campuses. Illegal drug use is rising sharply. Acquaintance rape and sexual assault on campus is a national scandal.

The reply too often heard from college administrators and educators is, "We are here to educate, not to punish." What kind of an education did our beloved daughter Jeanne get? What kind of an education did the thousands of student crime victims get?

Thank you, Mr. Chairman, for your kindness in inviting us to testify on this vital and most necessary legislation. We need the enactment of H.R. 2416 to insure that students on college campuses are aware of the dangers so that they can protect themselves.

Jeanne and thousands of other victims of campus crimes might be alive and well today if H.R. 2416 had been a law in 1986. Please enact H.R. 2416. It will save many lives, maybe of someone you know or love.

Thank you.

[The prepared statement of Ms. Clery follows:]

STATEMENT OF CONSTANCE B. CLERY

Good morning Mr. Chairman and ladies and gentlemen of the Subcommittee on Postsecondary Training and Life-Long Learning. Thank you for the opportunity to testify on the "Open Campus Police Logs Act of 1995," H.R. 2416, sponsored by Congressman John Duncan of Tennessee and 27 of your colleagues representing congressional districts all over the United States. You have also asked the witnesses to testify about the lack of response from the colleges and universities to the mandate contained in Public Law 101–542, the "Student Right-to-Know and Campus Security Act." Public Law 101–542 was signed into law in 1990. Six years later it still has not been enforced by the Department of Education!

I'm sorry to say that my husband Howard is not here with me. This 10-year crusade has taken its toll on his health. Howard and I founded Security On Campus, Inc. after the murder of our lovely daughter Jeanne on the Lehigh University Campus. This past April marks 10 years since our beloved daughter was so brutally raped and strangled to death by a fellow Lehigh student who didn't know her. Since this brutal taking of our daughter's life, Security On Campus, Inc. has grown to include thousands of supporters from among the parents of college and university students and students who have suffered from violent crimes, both sexual and other heinous crimes. We are proud that, through Security On Campus, Inc., we have been the prime factor in the passage of 3 federal and 25 state laws. Campus security nationally, has improved. However, the truth about the extent of campus crime and justice for campus crime victims is woefully missing.

One million U.S. citizens are denied equal protection of the law—these are residential college students who are denied immediate reporting of:

—The types and places of crimes occurring on campus.

—The names of students charged by the campus police, Deans and/or judicial systems. (Remember, students commit 80 percent of felonies)

Although The Student Right-To-Know and Campus Security Act of 1990 has improved security on many campuses, far too many campuses are:

—Not enforcing and expelling students using illegal drugs.

—Not enforcing states underage drinking laws.

—Not even reporting Rape and Sexual Assault cases and the names of students charged with these crimes to the potentially endangered campus community.

In a written report, we have included examples of grievous omissions and commissions of the Campus Security Act. The colleges involved range from Brown University, University of South Florida, and University of California.

After hearing the various types of testimonies today, Security On Campus, Inc. would like to see the following Amendments to the Higher Education Act:

(1) FERPA privacy provisions should *not* pertain to charges of criminal activity but only to academic grades and penalties such as academic cheating and plagiarism.

(2) Federal scholarships and loans be denied to students convicted of federal drug law violations—80 percent of student felonies are student on student crimes. (Studies show 90 percent of these felonies also involve illegal use of drugs and/or alcohol.)

(3) Colleges and universities should require student applications to reveal prior felony crime records. Currently, many of these applications require substantial personal information including charitable work done, hobbies, personal reflections on life, mores and their fellow man.

(4) Violations of the Campus Security Act should result in monetary fines levied by the U.S. Department of Education for each incident of non-compliance—the present penalty of withholding federal funds is an atomic bomb that all colleges and universities know they will never be subjected to.

The above requests are not extreme. What is extreme relates to the following:

(1) Under-age binge drinking is exploding on campuses. (Harvard University Health studies of universities.)

(2) Illegal drug use is rising sharply.

(3) Acquaintance Rape and Sexual Assault on campus *is* a national scandal!

The reply too-often heard from college administrators and educators is: "We are here to educate, not to punish."

What kind of an education did our beloved daughter Jeanne get? What kind of an education did the thousands of student crime victims get?

Again, thank you so very much, Mr. Chairman, for your kindness in inviting us to testify on this vital and most necessary legislation. We need the enactment of H.R. 2416 to insure that students on college campuses are aware of the dangers they face. Proper precautions for their safety must be enforced on all of our campuses, not just the few of today that are attempting to comply with Public Law 101–542.

Chairman McKEON. Thank you, Ms. Clery.

Mr. Clery.

STATEMENT OF BENJAMIN CLERY, EDITOR, CAMPUS WATCH

Mr. CLERY. Good morning, Mr. Chairman and Members of the subcommittee.

I completely agree with Education Secretary Riley's former comment that the cornerstone of education reform is a safe and secure campus. Tragically I am here to submit that many administrators do not have the integrity to inform their campus communities about the actual number of serious campus crimes, especially with regard to rape and sexual assaults.

For example, the Salt Lake Tribune recently ran an article wherein journalists are routinely denied access to police reports which are public records under Utah law. They cited three cases: 1992, Utah State University bombing of a professor's office; 1993, Weber State University, a student opened fire during a campus judiciary hearing; 1994, Snow College, the football team was targeted in a drive-by shooting. Yet none of those incidents appeared in the school's crime information.

I could cite more incidents of noncompliance with the Student Right to Know and Campus Security Act, but given the interest of brevity, I would like to submit the Chronicle of Higher Education's most current crime data reports, which illustrate an incredulous amount of zeros and hyphens for sexual assault categories despite collegian studies that estimate between 25 and 35 percent of all college age women will be victims of sexual assault during their college years.

As the president of the State University of New York's Campus Patrol Officers and Detectives commented, "I know that campuses do play games with crime statistics. I have seen where campuses have reported rapes as something less, and I have seen how campuses change the rules as to how officers are allowed to classify crimes just so that the more serious crimes are reported in fewer numbers."

And we have a few examples. The University of Pennsylvania recently until earlier this year was recording rape and suicide as a personal incident. Carlton College was previously classifying rape as advances without sanctions. I suggest these are euphemisms that are misleading, and they put the campus community at risk.

Many campus administrators have obfuscated factual crime information by abusing the intent of FERPA. Too often serious crimes reported to the Dean's Office and Rape Crisis Centers are logged in the campus security records, but handled internally through the school's judiciary system and then forever shielded from disclosure because of student records laws under the Buckley Amendment.

In our opinion, this is a contrived interpretation and serves to understate the actual number of campus crimes that are annually reported for the Campus Security Act. It also prevents verification of annual crime reports.

A study done by the Department of Communications at Southwestern Missouri State University has concluded, and it is very empirical, that the Buckley amendment is still being used extensively to deny student newspapers access to campus security records.

I called Mr. Sam Kistler back in February. He is Chief of the Institutional Review Branch for the Department of Education in Washington. I contacted Mr. Kistler to discuss Margaret Jakobson's case, as well as to make some determination regarding DOE policies and procedures to verify the accuracy of annual crime reports.

His first comment to me was that there are hundreds of laws on the books, and that all of these regulations could not be enforced to the letter of the law; that in many cases it is impossible to insure that schools are in compliance.

Well, I responded that we did not expect 100 percent statistical tests, but random audits like the IRS do might seem appropriate. Our discussion continued, and I tried to find out where DOE's priorities are with regard to campus safety. I did this, because the Assistant Secretary of Education, David Longanecker has been quoted in The New York Times or at least he impressed them that the Campus Security Act is not a priority for his office, that "we have limited resources, and we know there is a lot of date rape that goes unreported."

Subsequent to my conversation with Mr. Kistler, I drafted and mailed a Freedom of Information request to all 10 regional DOE offices, which together with a blanket response I would like to submit for record. The response by Howard Fenton confirms my belief that annual crime reports submitted by colleges and universities are simply accepted at face value.

We respectfully request that campus crime and related judicial proceedings are excluded from the provisions of FERPA. We also seek your support for the Open Campus Police Logs Act which will enable student papers to alert the entire campus community to current crimes, provide a method for verifying the accuracy of crime statistics, and it also levels the playing field for institutions who are accurately addressing the crime on campus.

Finally, we would really like to see the DOE elevate crime and safety to its first priority instead of somewhere else in their long list of obligations.

Thank you.

[The prepared statement of Mr. Clery follows:]

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Testimony of Benjamin F. Clery
for
The Subcommittee On Postsecondary Education, Training & Life-Long Learning
re:
Campus Crime Reporting & Problems Related To FERPA

Good Morning, June 6, 1996

My name is Benjamin F. Clery. I am the brother of Jeanne Ann Clery who was brutally beaten, raped and murdered by another student at Lehigh University on April 5,1986. My parents founded Security On Campus, Inc. in 1987 after they discovered the magnitude of violent crime on college campuses during the criminal trial and civil litigation. I am the current editor of the "Campus Watch" newsletter (bi-annual) which features felony crime blotters, as well as articles addressing crime and safety issues at U.S. colleges and universities.

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Introduction

The perception that college and university campuses are safe educational havens for our children has been destroyed by scores of student homicides, and thousands of rapes, assaults and robberies each year. Our organization is well versed regarding this insidious problem, as we have worked to improve campus safety since my sister's brutal rape and murder.

I completely agree with Education Secretary Riley's comments[1] that "Colleges are a reflection of our society...that the cornerstone of education reform is a safe and secure campus...You simply cannot have excellence in teaching and learning...if you don't have personal and community safety and security." Tragically, I am here to submit that many administrators don't have the integrity to inform their campus communities about the actual number of serious campus crimes - especially with regard to rape and sexual assaults.

For Example:

I. The Salt Lake Tribune recently ran an article[2] that reported student journalists are routinely denied access to police initial-contact reports which are public records under Utah law. In 1992, animal rights extremists were implicated in the bombing of a Utah State University professor's office...In 1993, a Weber State University student opened fire during a campus disciplinary hearing, injuring two people before he was killed by a campus police officer...In 1994, members of Snow College's football team were targeted in a drive-by shooting as they left a talent show on campus....But none of the above incidents is included in the schools' (crime) information...

II. The New York Times recently ran a comprehensive article[3] that reported:

A. University of South Florida (Tampa) - "A male student kidnaps and rapes a freshman who has refused to testify on his behalf at a disciplinary hearing, then shoots her brother and kills himself. Despite previous complaints from three other female students that he had stalked or hit them, he had never been suspended by the campus judicial system. Two years before this incident, a state panel found, the university covered up a complaint of rape against a star basketball player, ignored the harassment that persuaded her to drop her charges and overlooked subsequent complaints of assault that three other women made against the same athlete."

B. University of California (Santa Cruz) - "Several male students are found to have committed multiple sexual assaults on freshmen women. But they are allowed to transfer to other state campuses with clean records after a kind of academic plea bargaining between their lawyers and lawyers for the university. The women, who report being threatened and harassed by the accused students during the investigation, are told that they have no right to know the results of their complaints."

I could cite more incidents of non-compliance with the Student Right-To-Know & Campus Security Act of 1990, but given the interest of brevity I would like to submit (2) of The Chronicle of Higher Education's most current "Crime Data" reports which illustrates an incredulous amount of zeros and hyphens for the sexual assault categories; despite collegian studies that estimate 25%[4] to 35%[5] of all college-aged women will be victims of sexual assault during their college years.

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[1] U.S. Secretary of Education Richard W. Riley's speech to the National Conference of Campus Law Enforcement Administrators (IACLEA), July 9, 1995

[2] "Colleges Mum on Crime Stats", The Salt Lake Tribune 10/15/96, pg. B-1.

[3] With Colleges Holding Court, Discretion Vies With Fairness, New York Times 5/5/96, pg 1

As Don Kreger commented: "from my experience as state union president for the State University of New York's campus patrol officers and detectives, I know that campuses do play games with the crime statistics. I've seen where campuses have reported rapes as something less, and I've seen how campuses change the rules as to how officers are allowed to classify crimes just so that the more serious crimes are reported in fewer numbers[6]. (e.g. University of Penn. rape="personal incident"; Carlton College rape ="advances without sanctions")

Federal Education Rights and Privacy Act (FERPA)

Since the enactment of the Student Right-To-Know & Campus Security Act of 1990, many campus administrators have obfuscated factual crime information by abusing the intent of FERPA which protects the confidentiality of student records that include academic transcripts and financial aid reports. Too often, serious crimes reported to the dean's office and rape crisis center are not logged into campus security records but "handled" internally through the school's judiciary system and forever shielded from disclosure via the interpretation that campus criminal proceedings are a component of a student's academic record.

In our opinion, this interpretation serves to understate the actual number of campus crimes that are annually reported per the Campus Security Act of 1990. Worse, this inclusive interpretation of FERPA prevents verification of annual crime reports submitted by higher education institutions to the Federal Government and the campus community.

A study done by the Department of Communications at Southwest Missouri State University concluded that "the Buckley Amendment is still being used extensively to deny student newspapers access to campus security records..." This study indicated that approximately 88% of the student newspapers surveyed had attempted to gain access to campus crime reports; that 70% of those newspapers were denied direct access to the actual campus crime reports and 30.4% reported that FERPA was cited as the reason to deny access[7]. As John Silber, president of Boston University, recently commented to the New York Times[8] "...today colleges and universities increasingly tend to circumvent the courts and bury serious criminal cases in their own judicial systems."

We respectfully recommend that the Congress amend FERPA to specifically exclude from the definition of "education record" any reports maintained by colleges and universities regarding allegations of criminal misconduct. This type of obfuscation would not be tolerated in any municiplity due to public safety as provided under the Equal Protection Clause of our constitution.

Enforcement of the Campus Security Act

Enforcement of the Campus Security Act has been virtually non-existent. On February 21st, our office learned that panelist Margaret Jakobson had filed numerous complaints to the DOE with regard to non-compliance of the Campus Security Act at Morehead State University. Initially, I contacted B. Ann Hageman who is Chief - Institutional Review Branch I for Region V of the DOE. She informed me that her duties are focused on student finance compliance (i.e. student loans, Pell Grants), and that she was not prepared to handle Campus Security Act complaints. Ms. Hageman directed me to Mr. Samuel Kistler who is the Chief of the Institutional Review Branch for the Department of Education in Washington, D.C.

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[4] Date Rape Study at Lehigh University, Joan Spade - Assoc. Prof. Sociology, 1991

[5] Illinois Coalition Against Sexual Assault: Sexual Violence Facts and Statistics

[6] Academe Today Colloquy, Don Kreger 4/23/96

[7] "Buckley Amendment, Censorship Still Problems for College Newspapers", Dept. of Communications at Southwest Missouri State University 12/94, pp. 4-5

[8] Students Should Not Be Above The Law, New York Times Op-Ed 5/9/96

I contacted Mr. Kistler to discuss Margaret Jakobson's case, as well as to make some determination regarding DOE policies and procedures to verify the accuracy of annual crime reports required by the Campus Security Act. Mr Kistler commented that there are hundreds of laws on the books and that all of these regulations could not be enforced to the letter of the law...that in many cases it is impossible to ensure that all schools are in compliance.

I responded that we didn't expect a 100% test for compliance, but suggested that a sampling of reports, such as IRS random audits, would seem appropriate.

Our discussion continued with regard to where campus safety falls within DOE's priorities. I mentioned that asst. secretary of education David Longenecker had been quoted in the New York Times[1] as saying the Campus Security Act is not a priority for his office "...we have limited resources...we know there's a lot of date rape that goes unreported."

Subsequent to my conversation with Mr. Kistler, I drafted and mailed a Freedom of Information Request to all 10 Regional Offices of the DOE - which together with a blanket response, I would like to submit for the record. The response by Howard Fenton (Acting Director - Institutional Monitoring Division) confirmed my belief that annual crime reports submitted by colleges and universities are accepted at "face value".

Closing

My family and our organization has great regard for the enrichment that higher education bestows upon our children and the future of our democratic society. As fiduciaries and ordinary citizens of this great nation, we have the responsibility to create and maintain safe campuses in which the intellect and beauty of human beings can flourish. Violent crime can not be tolerated on campus, and college administrators must inform the campus community with accurate crime information.

Please join us in our effort to ensure safe learning environments for our college and university students - we respectfully request that campus crime and related judicial proceedings are excluded from the provisions of FERPA. We also seek your support of the "Open Campus Police Logs Act of 1995" which will enable student papers to alert the entire campus community to current crimes, as well as to provide a method to verify the accuracy of annual crime statistics. Finally, we respectfully request the DOE to elevate campus crime and safety to its first priority and to sample annual crime reports on a regular basis.

Thank You.

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[1] "There's No Verdict Yet On Campus Crime", New York Times 1/7/96, Education Life

UNITED STATES DEPARTMENT OF EDUCATION
THE SECRETARY

Remarks Prepared for[1]
Richard W. Riley
U.S. Secretary of Education

National Conference of Campus Law Enforcement Administrators
Philadelphia, Pennsylvania
Sunday, July 9, 1995

Good afternoon, ladies and gentlemen. It is a great pleasure to be here with so many individuals who are committed to the mission of making our universities and colleges safe and secure places for our young people to learn and grow.

I am especially pleased to have the opportunity to thank a good friend, Carl Stokes from the University of South Carolina, for that introduction ... and to commend him on his service as President of this fine organization. And I also want to offer my congratulations to the new President, Doug Tuttle; Yvon McNicoll, the new President-elect; and the new Vice President, S. Eric Jackson. I know that you will continue to offer the excellent leadership that is a hallmark of this international association.

As I mentioned, I am so pleased to have the opportunity to speak to you today about some of the issues facing the higher education community as we all move forward into the 21st century. I have been thinking a lot about this nation's future -- perhaps even more than usual -- because I have recently seen one of its newest inhabitants ... my granddaughter, Anna Maureen Riley, who was born several weeks ago in Washington.

Looking at that beautiful new baby, I could see both the boundless opportunities and the responsibilities that lay before her and her family.

I firmly believe that this great nation is a land of opportunity. But, we need to maintain that promise for everyone. Without a doubt, I know that the best way to do that is through education -- making sure that every person receives a quality education in a setting that allows him or her to learn to their maximum ability. Education is at the center of our nation's future and at the center of each of our future well-being.

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[1] The Secretary may depart from his prepared remarks.

400 MARYLAND AVE., S.W. WASHINGTON, D.C. 20202-0100

Our mission is to ensure equal access to education and to promote educational excellence throughout the Nation

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As President Clinton has said, education is the "fault line" between those who will have a real chance to achieve the American Dream and those who will not. Yes, we have much work to do to build respect and fairness between members of our diverse population in terms of race, gender, economic groups, religions and culture. But the America of tomorrow will, in large measure, consist of divisions between the educated and the uneducated.

That is why your work on the campuses of our nation's colleges and universities -- the crown jewel of our American education system -- is such a vital part of the future being forged by the young men and women who are students on these campuses.

Because no matter how deeply President Clinton is committed to investing in quality education ... and let me tell you, it is his number one priority ... the cornerstone of education reform is a safe and secure campus. You simply cannot have excellence in teaching and learning ... you cannot have the kind of environment where quality education flourishes ... if you don't have personal and community safety and security.

That being said, achieving the kind of utopian learning environments that some hope and others expect our college campuses to be, is not an easy task. And, as each of you are certainly aware, it is a mission that is increasing in difficulty. And that makes your jobs all that much more challenging.

To a limited degree, colleges are a reflection of our society, and to that extent, all of you encounter the same ills and same problems that our society faces as a whole. But you have additional burdens -- problems unique to the college campus that make your job even more difficult.

You have, for instance, the constant and competing pressures posed by the other administrators of your school, by the members of your student bodies, by the parents of those students, by the alumni of your school, and by the local non-university communities of which your campuses are a part.

And, of course, you face the daily challenge posed by a large, generally intelligent, curious, and maturing group of young adults whose age range makes some of them able to participate in things which for others is illegal.

So, I want to make sure that you understand how the President and I and others who work in this field recognize and appreciate the difficult and complex job that you all have.

Certainly, one way in which we can begin to address and overcome these challenges ... the violence that lurks in too many of our college communities ... is through increased and better accounting of just what is occurring on campuses.

Your recent survey on this subject will be a big help in this regard, not only as a source of information, but as a model for others who want to proceed in this area. Additionally, I would cite my Department's own regulations for the Crime Awareness and Campus Security Act of 1990 as a positive source that will help us find solutions to the crimes on campus by helping those with the responsibility to fight crime ... including students on campuses ... by providing more information to them.

Everyone here understands the tension between those who want more, and more reliable information and statistics on these crimes, and the educational institutions which are trying to provide an educational environment that is not inundated with security measures, and that is free of fear and rumors of danger while, simultaneously, providing the basic right to security in this free democracy that we treasure.

We need to work together to achieve these goals. But, happily, we all are working toward the same goals -- success for our students.

But the students themselves also need to play an important role. As President Clinton said just the other day, "We have to create more opportunity and demand more responsibility." College students need to understand that they are adults and there are consequences for their actions. They need to realize that binge drinking, for example, which unfortunately is something that far too many students participate in, is associated with increased problems such as sexual harassment, physical and sexual assault, and property damage. It is symptomatic of a lack of respect that these students have not only for themselves, but for their peers.

The recent Harvard School of Public Health study demonstrated that binge drinkers were 7-10 times more unlikely to engaged in unplanned sexual activity, to get in trouble with campus police, to damage property, or to get hurt.

And other studies that I am sure you are familiar with have found that alcohol is involved in two thirds of college student suicides, in 90 percent of campus rapes, and in 95 percent of violent crime on campus.

Now college is certainly a time to explore new ideas and pursuits ... and to experiment. But if students truly want independence ... and if they want the respect an adult deserves ... they need to demonstrate that responsibility ... to realize, as President Clinton said, that a democracy requires a certain amount of work for the common good.

It is not your job to instill these values in the students who attend your schools. That is something that comes with time ... and that develops because of the education they have received up to this point -- both in school and at home.

There is a definite link to creating a first-class system of education and helping to create morally responsible young people who turn away from drugs and the culture of violence and become good citizens who care about their fellow citizens.

Nothing will help a young person blossom into a productive, energetic adult in this information age more than learning. A strong education foundation offers an irresistible force for good -- that can be shared by that person's community, be it university, town, or nation.

That is why the proposed budgeting cutbacks in education by the new majority in Congress are so distressing in their shortsightedness. They mortgage the future of our young people and our nation for a short-term tax gain by a small wealthy elite. That is no way to run a government or plan for the future.

But, at least as important as the learning that a student receives in the classroom is what he or she learns at home. Everything starts with the family. Responsibility starts at home. Strong families, strong schools and strong communities remain our first line of defense against the spiritual numbness of violence.

When I was a State Senator in South Carolina, an expert in juvenile delinquency came before my special committee to testify. And what he said has always stuck in my mind.

He said that if a young boy showed up on a street corner one night and found his friends throwing rocks or aiming guns to shoot out the street light, nothing could be done to save that boy from going down the road to delinquency if he never asks or never knows to ask the question "What will my parents think?" If that thought goes through his mind, it can make a real difference.

Our schools need to reinforce parents' efforts in this regard and teach American core values, good citizenship and character.

But, let me quickly add that this doesn't mean that parents must shoulder all the responsibility ... or all the blame. Perhaps President Clinton said it most clearly several weeks ago when he stated, "Parents have to set better examples; they have to teach their children. We need to tell young people at the earliest possible age that there comes a time in life when you cannot blame other people for your own problems, and whatever your difficulties are, you have to behave and you have to take control of your own lives."

Now you may wonder why I am talking to you about parental involvement in education -- something that largely occurs before you ever have seen your students.

Well, if we want to solve the problems of violence and drug use on college campuses ... if we want to ensure that these students are responsible citizens and compassionate adults, we ... you ... need to pay attention to what happens before they ever get to college.

You need to know, for instance, about the recent study that showed that drug use among 8th, 10th and 12th graders was up, continuing a recent trend. Because if we all do not address this problem together now, it will only be magnified when these young people, and those who come after them, get to college.

And you need to know that there will soon be a massive infusion of young people into our elementary and high schools -- more than 7 million students -- in what is called the baby boom echo. This population bulge is likely to overwhelm many schools and, shortly thereafter, many colleges, if we are not prepared.

At the elementary and secondary levels this "boomlet" could exacerbate the drug problems we already are seeing. And in colleges, it will most likely require, among other things, more students being housed off campus, which will aggravate the difficulties caused by this kind of forced widening of the university community.

Each of you are here today because you are interested in solutions. You are professionals who understand the importance of education and who are concerned with the problems that we face that can disrupt that education.

Working together, we have the ability to overcome these problems. We need to develop solutions that have a certain amount of common ground. Together.

I would like to close by reading you something that the great writer, Hannah Arendt, who fled from the Nazis to our country, wrote about the purpose and importance of education.

"Education," she said, "is the point at which we decide whether we love the world enough to assume responsibility for it and, by the same token, save it from the ruin which, except for the coming of the new and the young, would be inevitable."

If we want our young people to grow and develop a sense of civic responsibility, to be able to create safe and secure lives for themselves and their families, and to assume responsibility for their future and their world -- a world increasingly dependent on learning and education -- we must work to ensure that investment in improving education remains at the center of our plans and that this investment includes a learning environment that is safe and secure.

I am sure that each of you loves the world enough and cares enough for the students at your school to work for a better education for all the children of this great nation.
I look forward to working together with you for this goal.

Thank you.

The Salt Lake Tribune Oct. 15, 1995

Colleges Mum on Crime Stats

By Joan O'Brien
THE SALT LAKE TRIBUNE

In 1992, animal-rights extremists were implicated in the bombing of a Utah State University professor's office.

In 1993, a Weber State University student opened fire during a campus disciplinary hearing, injuring two people before he was killed by a campus police officer.

In 1994, members of Snow College's football team were targeted, but uninjured, in a drive-by shooting as they left a talent show on campus.

Federal law requires colleges and universities to provide crime statistics for 1992, 1993 and 1994 to students attending their campuses this fall. But none of the above incidents is included in the schools' information released under the "student right-to-know" act.

Further, students at those three schools and some others in Utah complain that police and administrators are unresponsive to their requests throughout the year for information about campus crime.

Student journalists are routinely denied access to police initial-contact reports, which are public records under Utah law. And campus disciplinary hearings like the one at Weber State — where sometimes criminal matters are settled — are kept secret.

Utah students are not the only ones complaining. Security on Campus, the Pennsylvania-based organization that lobbied for the right-to-know act which took effect in 1992, is championing new legislation requiring public and private schools to provide more detailed and more frequent reporting about crime.

Police and security officials at Utah's nine public colleges and universities, as well as private Brigham Young University, say they support the current law that requires release of crime statistics. But they are well aware that students barely glance at the right-to-know statistics before throwing them in the garbage.

Says BYU Administrative Services Director Michael Harroun: "There are no more than a dozen people who read them on campus and I'm one of them because I have to put them together."

Constance Clery, Security on Campus founder, is not surprised no one looks at the right-to-know data provided by police departments.

"The statistics are sterile," she says. "And we know that most universities are fudging them, especially when it comes to sexual assaults . . . You look down those columns of statistics and it's absolutely laughable when you see the zeros upon zeros upon zeros."

Convinced schools are giving students and their parents a false impression of campus safety, Clery proposes that schools provide a daily accounting — something between a police report and a log — of criminal activity on campus.

"Many lives would be saved by this type of law," says Clery, whose daughter was raped and murdered in her college dorm room six years ago. "If there were a rash of thefts or sexual assaults in certain areas, then the student body would be aware of it and take precautions."

If the law passes — and Clery says it has strong support in Congress — theoretically only BYU would be affected in Utah because the state's Government Records Access and Management Act makes initial-contact reports public record at tax-supported institutions.

But students at Weber State and Utah State say they are not given access to police reports. Student journalists at Dixie College, Utah Valley State College, Salt Lake Community College and the University of Utah also have complained of di[illegible]culty in obtaining criminal informa[illegible] from campus or local police during [illegible] past few years.

Weber State *Signpost* reporter Ch[illegible]tine Bush, who met with university co[illegible]sel Friday, says school officials promised at that meeting to make crime information more available. But she still will not be given clear access to police reports.

Weber State attorney Richard Hill [illegible] the school is working to expedite rele[illegible] of crime information. But it must [illegible] protect privacy rights of those on campus. Thus, while student journalists m[illegible] have immediate access to police logs, [illegible] more detailed police report will be screened before it is turned over to journalists to ensure protected material is not made public.

At Utah State University, police reports are not released until the investiga-

■ See SCHOOLS, Page B-

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Schools Mum on Crime Stats

■ Continued from B-1

tion is completed, says department Director Steven Mecham. But the student newspaper receives a police log.

Statesman Editor in Chief Jeff Hatch complains the information provided by police is insufficient.

"The blotter that we get from them is so vague," he says. "And when we call them back to get more information, we get the runaround."

Until last year, police at the University of Utah released a log listing only the type of crime, such as "theft," "burglary," or "simple assault." To get further information, student journalists would have to call the responding police officer.

A brutal dorm room assault involving student athletes last winter demonstrated problems with that arrangement, however. Because the incident was listed on the police logs as a "simple assault," *Daily Utah Chronicle* reporters did not initially seek more information from police.

It was only when the victims, frustrated with the case's prosecution, contacted the *Chronicle* that information about the incident became public. Newspapers then fought U. police to gain access to initial-contact reports in that case and others.

Now the *Chronicle* freely checks initial-contact reports for a weekly blotter and crime stories, says police reporter Heather May, adding that a readership survey shows those are the paper's most popular features.

Chronicle reporters have been responsible in the handling of information contained in the reports, she says, and do not print names and other sensitive information.

Campus police departments often cite student journalists' inexperience as justification for withholding public documents, Salt Lake news media attorney Jeff Hunt says.

"They don't take [student journalists] seriously. It's a constant battle to get information about the crime that's occurring on campus. It's a sensitive subject for the university administration and that filters down to the campus police department. They're afraid of fanning out anything that would make the university look bad."

Even campus police officials admit that a tarnished image often is the only reward for honest crime reporting.

Dixie College's Don Reed says the number of alcohol violations reported under the student right-to-know law makes it appear the school has a drinking problem. But the number simply reflects a zero-tolerance policy.

"We would prefer to cite a kid for minor-consumption-of-alcohol at 8 p.m. then come back and arrest him for a DUI at midnight," he says. "Over 90% of campus crimes are committed by persons under the influence of alcohol."

College of Eastern Utah Police Chief Phil Johnson agrees that low stats can signal a high incidence of crime.

"If I were to send my daughters away to school, and their stats showed no alcohol violations, I'd say either they don't enforce it or they're lying about it. I'd feel more comfortable sending my kids to a place that had several. It would show somebody is keeping an eye on things."

The student right-to-know act requires schools to report liquor-law violations, drug-law violations, weapon violations, homicides, forcible sex offenses, nonforcible sex offenses, rapes, robberies, aggravated assaults, burglaries and motor vehicle thefts.

Some 95% of crimes reported at Utah colleges and universities are thefts. Most schools report few if any of the other crimes. But matters handled internally by disciplinary bodies generally are not reported at all.

That has concerned student journalists and the Society of Professional Journalists, which has called on colleges and universities to open disciplinary proceedings when they involve criminal activity.

Schools cite the Family Educational Rights and Privacy Act when closing the proceedings. But Hunt says that U.S. Education Department guidelines issued in January clarify that schools can keep the proceedings open.

That would ensure due process is followed and give students a clearer picture of campus crime, Society of Professional Journalists leaders argue.

Clery, of Security on Campus, says that under the new legislation, schools would be required to report incidents even if they are ultimately handled informally, but not the names of victims and witnesses. It would fulfill the original intent of the right-to-know law.

Campus police say they could support such a system, though it would be more work. At BYU, Harroun says he already does what the proposed law would require, meeting weekly with student journalists and talking daily with the downtown newspaper. And to good effect.

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"All the News
That's Fit to Print"

The New York Times

VOL.CXLV .... No. 50,418 | Copyright © 1996 The New York Times | SUNDAY, MAY 5, 1996

With Colleges Holding Court, Discretion Vies With Fairness

By NINA BERNSTEIN

OFFSTAGE JUSTICE

First of two articles

OXFORD, Ohio — In February of last year, two rapes were reported to the police in this classic college town framed by cornfields.

A police sketch of the first rape suspect appeared on warning fliers inside the red brick residence halls of the college, Miami University of Ohio, and near local bars, where fraternities hold "grab-a-date" parties and beer costs a quarter on Wednesday nights.

The suspect in the second rape was never on a poster. But he was everywhere else, free to come [illegible] on a campus where university officials knew his identity, but most of the women he met did not.

The first man was pursued for months by the criminal justice system, and he was eventually arrested and charged with a felony that carries up to 25 years in prison. The outcome of his case — the gunpoint rape of a student in an off-campus house — will be a matter of public record.

But the case of the second man vanished into a separate judicial world so secret that many Americans are unaware that it operates behind closed doors at most of the nation's 3,800 colleges and universities. As the man prepares to graduate from Miami University this month, not even his mother knows that he was officially placed on "student conduct probation" for sexually assaulting an 18-year-old freshman who was sleeping.

The story behind the Miami University case is emblematic of a pattern of campus injustice that emerges from confidential case files, police records, civil litigation and more than 200 interviews at a wide range of institutions, like Salem State College and Harvard in Massachusetts, Fordham University in New York and the large public universities of California, Georgia and Colorado.

At a time of crackdowns on crime and adult sentences for many juvenile offenders, campus justice is a kind of parallel judicial universe where offenses as serious as arson and rape can be disposed of discreetly under the same student conduct codes that forbid sneaking into a university dance without a ticket.

To be sure, most non-academic college discipline still involves infractions like drinking by underage students and disorderly conduct. But increasingly, systems designed to deal with youthful misbehavior are investigating and judging serious student-on-student crime. The proceedings range from elaborate trials with student judges and advocates to mediation sessions before a single administrator.

For more than 70 percent of the colleges across the United States, state laws, college charters or local governments give campus police forces full-fledged arrest power — and enormous discretion to decide whether to refer cases directly to district attorneys or

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leave them to quiet campus justice.

Many serious offenses reach neither campus police officers nor their local counterparts because they are directly funneled to college judicial administrators by student resident assistants, who get free rooms or tuition discounts in exchange for serving as the enforcers of dormitory life.

Though college officials say victims are always free to seek redress in the real courts, many prosecutors complain that campus justice systems usurp and undermine such cases before they can get a crack at them.

It is a system, critics say, that is tailored to the politics of public image and the power of vested interests, from athletic departments and fraternities to the local businesses that benefit from a student culture of binge drinking. In many college-dominated towns, law-enforcement agencies seem only too happy to look the other way.

College officials say campus justice is needed to create a safe educational community for students, if only because the criminal justice is too slow at getting results. But R. Keegan Federal, an Atlanta lawyer who successfully argued a 1993 Georgia Supreme Court case that opened the University of Georgia's internal judiciary system to public scrutiny, sees the patchwork of students, teachers and administrators who judge these cases as a fourth judicial branch without accountability.

"What we've got here," Mr. Federal said, "is people across the whole United States, people who are selected by a process we don't know about and sit on hearings that are secret and make decisions affecting people's lives and freedom and careers, and yet nobody knows about it. Frankly, it scares the hell out of you when you read some of these things."

A sample of cases from around the country illustrates why critics contend that confidentiality hides irreconcilable conflicts of interest:

The University of Southern Florida in Tampa. A male student kidnaps and rapes a freshman woman who has refused to testify on his behalf at a disciplinary hearing, then shoots her brother and kills himself. Despite previous complaints from three other female students that he had stalked or hit them, he had never been suspended by the campus judicial system. Two years before this incident, a state panel found, the university covered up a complaint of rape against a star basketball player, ignored the harassment that persuaded her to drop her charges and overlooked subsequent complaints of assault that three other women made against the same athlete.

OVER–

Harvard University in Cambridge. A male medical student is accused of sexual assault by three female classmates, and he is also caught watching women in the residence-hall showers. An administrator refers him to a psychiatrist, and a disciplinary committee of senior faculty advises him to take a year off. "He worked in an impoverished African country and got the most raving reviews, helping the poor," said Carola Eisenberg, the former dean of students, in confirming the facts of the 1989 case, never public until now. "Was he helped through psychiatry? I really couldn't tell. Would he do that to patients? I don't know."

University of Georgia in Athens. A 19-year-old man is found battered and unconscious in the street outside a fraternity house; an investigation by the university's fraternity advisers finds that fraternity members beat him up and held a fraternity meeting to coordinate their stories before the police came. But university administrators, overruling their own staff, throw out the conspiracy case for lack of evidence before it can be heard in a student court open to press coverage. Earlier, when student court proceedings were still secret, a man who set fire to another student's door in a gay-bashing campaign was referred directly to the university judiciary by a resident assistant, with no call to the campus police; the incident came to light only because the editor of the student newspaper happened to live on the same floor.

University of California in Santa Cruz. Several male students are found to have committed multiple sexual assaults on freshmen women. But they are allowed to transfer to other state campuses with clean records after a kind of academic plea bargaining between their lawyers and lawyers for the university. The women, who report being threatened and harassed by the accused students during the investigation, are told that they have no right to know the results of their complaints.

"What you're saying is purely anecdotal, based on some notorious kinds of cases that can become sensationalized," countered Dennis Gregory, past president of the Association for Student Judicial Affairs and associate dean of students at the University of Tennessee in Knoxville. "The large majority of the cases that are dealt with are dealt with appropriately, are dealt with professionally. Making it a public system is not the way to deal with the abuses."

Colleges have to maintain discipline on their campuses, Mr. Gregory said, or they would leave themselves open to civil liability. "We're damned if we do, and we're damned if we don't," he declared.

Typically, student victims are asked if they want to press criminal charges. But the same college personnel advising them of their options have a potentially conflicting need to protect the institution from bad publicity and liability, says Jeffrey Newman, a Boston lawyer on the board of the national nonprofit advocacy organization Security on Campus, founded by the parents of a woman who was raped and murdered by another student at Lehigh University in Bethlehem, Pa. Mr. Newman, who specializes in civil litigation on behalf of student crime victims, said that colleges actively dissuaded many from pursuing criminal prosecutions.

pus justice system is likely to conduct its own parallel proceedings. And those who skip the college disciplinary process pay a price: without it, even a grand jury's felony indictment will not necessarily persuade college officials to restrict the suspects' access to classes or dormitories.

"We're all afraid of being sued," Dan Abrahamowicz, the dean of students at the University of Toledo, told fellow administrators in a candid moment at a recent conference of the 1,000-member Association for Student Judicial Affairs. Within their own world, Mr. Abrahamowicz said, administrators of campus justice are comfortable representing university interests while defending student rights and acting as "investigators, juries, judges, presenters, counselors — and educators, most of all." The question, he said, is "can we sell this outside of the milieu of higher education?"

The Pursuit of Justice

Victim and Accuser Before the System

In the Georgian-style residence halls of Miami University of Ohio, wing chairs and fireplaces create an aura of private gentility unusual in a public institution. Here possession of a beer by an underage student results in an automatic suspension on the third offense, as does academic dishonesty. Yet sexual assault is considered suitable for mediation or probation, as the woman who reported the second February rape last year found in a bitter lesson about campus justice.

The woman, Erin R., who asked that her last name not be published, is a sophomore now. The long fair hair she had last year is gone. She cut it off, dyed it black and shrouded her slim body in baggy clothes after seeing her assailant in her dormitory and cafeteria and confirming that the disciplinary board that had found him responsible for sexually assaulting her had not suspended him. "I don't know what it takes," she said, looking bleakly at the campus that she used to consider "this little safe place, out in the middle of nowhere."

In the official brochure of crime statistics sent to the 16,000 students here last fall, the university reported no rapes between January and June 1995. The two rapes reported to police that February were not counted because the incidents occurred in off-campus housing, only blocks from the campus lawns. Nor did the brochure refer to 21 rapes between January and August 1995 on a separate university list. Many of these rapes, all involving the university or its students, were not reported to the campus police but were reported to a variety of university agencies, hospitals and community counseling centers.

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Last April, in a small room in the administration building, Erin told two students and two professors on a disciplinary board panel what she had already told campus and city police: how she had fallen asleep in her clothes on her stomach after a drinking party at an off-campus house and had awakened to find the host, a 190-pound wrestler who she barely knew, pinning her down and penetrating her from behind. A male friend from her dormitory who was asleep beside her woke up to her cries and witnessed the scene. The evidence included a handwritten letter of apology that the accused, pleading extreme drunkenness, wrote to her four days later, after the woman's friend had confronted him about the incident.

"I can't believe what I did," the two-page letter by the accused student, Aaron Grossman, reads in part. "Although I hurt you very seriously, I pray to you that you won't destroy my life. . . . My Mom used to work at the Rape Crisis Center in Cleveland & I have seen many women scarred by men doing the things that I guess now that I've done. I realized then as I do now the effects that rape has on a woman & would never knowing want to hurt someone like that. . . . I know you'll never forgive me for this, & I understand why."

Mr. Grossman said at the hearing — and maintained in an interview in March — that he had been confused and scared when he wrote the letter and that he had since remembered that the sex had been entirely consensual.

The Oxford police say they strongly encouraged Erin to press criminal charges. "Like we told her — you've got a conviction here," Lieut. Richard McVey said in a interview at the small station house where he has kept the original letter of apology. But Erin says a five-minute interview with an impatient and hostile assistant prosecutor dissuaded her from that course.

John Holcomb, the Butler County prosecutor for 32 years, said he could not recall an acquaintance-rape case prosecuted by his office recently, let alone a conviction when the woman had been drinking. He reminisced about the days when women students had 10 P.M. curfews, and he explained that if a woman was intoxicated and voluntarily stayed in a young man's place late at night, "most people would ask themselves, 'Well, what did she think was going to happen?' "

Erin turned to campus justice, but it was not easy to be heard. At one point, she said, Susan Vaughn, the university's judicial affairs coordinator, suggested that the case be handled through mediation as "a misunderstanding" instead of in a disciplinary hearing.

Though neither Ms. Vaughn nor James Slager, the dean of student affairs, would discuss this case, Mr. Slager acknowledged that they considered mediation a suitable way to deal with a student sexual assault case if the victim agrees.

But Erin did not agree. She said Ms. Vaughn had told her, " 'You need to understand that even if we do find him responsible, he may not be suspended.' I heard her say that, but I didn't think she really meant that would happen."

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Vith Colleges Holding Court, Fairness Is Entangled With Discretion

At the hearing, the disciplinary board sat at one end of a conference table, with the accuser and the accused on the other. Erin was flanked by two companions: her 26-year-old sister and Cameron Peebles, an 18-year-old male friend. Mr. Grossman, 22, brought a wrestling teammate.

At some colleges, the accused can bring in a room full of friends for support if he wishes, and he can be represented by a lawyer, while the complainant, as a witness, has no right to an advocate. At other places, both have a right to counsel, but the lawyers can only prompt their clients, not speak themselves. Some systems have student prosecutors and assign each participant a student advocate instead, and some have a staff member make a presentation. Here Ms. Vaughn and Mr. Slager only listened.

At the hearing, "Erin was very emotional, just constantly crying," her 26-year old sister recalled.

Mr. Peebles said that Mr. Grossman "came across like he didn't take it seriously — 'She wanted it, like why am I here?' "

When Mr. Grossman was asked to repeat his account, in a recent telephone interview, he said, "Whatever you've heard is what I said. It was more than a year ago. There was no evidence."

And the apology? "If anything, I lied in the letter," he said.

The panel deliberated for about 20 minutes after a four-hour hearing, then announced that they were holding Mr. Grossman responsible for violating Section 103 of the student code, entitled "Physical or Psychological Abuse of Others," specifically paragraph A: "Sexual Assault."

But the next day, when Erin asked to know Mr. Grossman's punishment, the judicial affairs coordinator refused to tell her, records confirm, claiming that the Federal Educational Records and Privacy Act forbade disclosure.

In fact, a 1992 amendment to the act explicitly gives victims of sexual assault a right to know, and an older exemption allows the release of information about the accused to victims of violent crime. Both provisions are widely ignored. In one survey, 41 percent of colleges responding said they did not tell victims the results of disciplinary hearings at all.

After Erin's father protested, she did get official notification in a letter dated June 20: "The sanction imposed by the Disciplinary Board was that Aaron be placed on Student Conduct Probation for as long as he remains a student at Miami University." That meant if Mr. Grossman was found responsible for any other serious violation before graduation, he would be suspended.

The Police Chief, Steven Schwein, called it "a slap on the wrist."

In Defense of Discretion

College Administrators Often Overlook Police

Defenders of campus justice say that at its best, it offers students swift, sensitive and private resolutions that would not be available from prosecutors and juries. "Is a jury as well trained as my judicial board?" asked Lee Bird, who directs the judicial program at tiny St. Cloud State College in St. Cloud, Minn., which won a national award last year for its unusually victim-friendly process. "I don't think so. I don't allow people to be badgered. There's no yelling, screaming, objecting."

On the other side, prosecutors and police officers cite campus proceedings that have damaged or destroyed viable cases. At Salem State College, a recent student rape trial ran for 11 hours, until 1 A.M., with no rules of evidence, and produced a tape recording that the local prosecutor had to study word by word because the criminal case could be dismissed if she withheld anything exculpatory from the grand jury. It declined to indict.

The illusion that campuses are self-contained communities often keeps administrators from even thinking of referring cases to the criminal justice system.

In the case of the Harvard Medical School student accused of forcing unwanted sexual acts on several classmates, for example, Dr. Eisenberg, the former dean of students, seemed astonished when she was asked if criminal charges had ever been considered. She had already described the student as "any mother's dream:" a handsome, bright, violin-playing Ivy League graduate.

"Oh, no, absolutely not," she said. "This as an in-house sort of an accusation. The only reason we consulted the lawyers is that the committee had decided to expel him, we would have had a suit on our hands in no time."

Exactly, said Maria Blanco, a lawyer who brought a class-action law suit on behalf of the women in the University of California at Santa Cruz case. "They're concerned about who has the juice," she said. "If they expel somebody, they might get involved in a lawsuit. Until we brought the complaint, they had no inkling that the women had that kind of clout."

At Santa Cruz, the university's judicial administrator even threatened one victim that her assailant's punishment would be nullified if she told anyone about it, according to a 1994 investigation by the Department of Education's Office of Civil Rights. The six-month investigation examined 92 complaints of sexual harassment and sexual assault at the Santa Cruz campus made over a two-year period and found that the handling of such complaints was so lenient and biased toward the accused men that it had created a discriminatory environment for all women on campus.

The university adopted new policies, including a system of coded transcripts that alert other state campuses to a students' disciplinary history. But few other institutions have followed suit.

"You could be a serial rapist here, and it wouldn't show up on your transcript," Dennis Donham, the vice president for student affairs at the University of Pittsburgh, said recently. "A transcript is considered practically sacrosanct, like a holy document."

A Case's Aftermath

For Some Onlookers, Shock or Satisfaction

Campus justice in Erin's case taught some more than others.

Mr. Peebles, Erin's friend at the hearing, was especially shocked by the result. Three days after the hearing, he himself was automatically suspended for a semester for possessing a beer while underage. "The irony was so thick," he said.

Mr. Slager, the dean of students, would not talk about either case. "I certainly am satisfied with the way we're handling things here," he said. "I wasn't born and bred to be a disciplinarian. I just want a system that is fair."

Mr. Grossman seemed to shrug off the verdict. "I was found responsible, but I was allowed to continue on," he said. "You don't have to be totally guilty to be responsible."

Asked his mother's reaction to the episode, he showed his first sign of concern. "She doesn't know," he said. "I never told her."

Meanwhile, the police sketch of the gunpoint rapist is gone from the uptown taverns. Erin's sorority recently threw a "crush" party at one bar. After making sure that Aaron Grossman's name was not on the invitation list, Erin went to the party, but she left early. Later, she learned, he showed up anyway.

NEXT: At the heart of the campus justice system is a protected place for university fraternities.

A TRADITION OF CARING:
GIVE TO THE FRESH AIR FUND

OVER-

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Years Later, Fordham Case Still Haunts Woman

By NINA BERNSTEIN

It has been six years since Karen Schmidt took what she calls "a trip through Fordham's judicial hell," but the memories still torment her.

She was a junior at Fordham University in the Bronx that January in 1990, a confident young woman who had founded the Jesuit school's first dance team and she was talking and drinking beer with two male students in her dormitory room past 3 A.M. Suddenly, she said, one of the men, a football player twice her size whom she considered a friend, pinned her and proposed a sexual threesome. She went from disbelief to desperation, telling him to stop, struggling and crying hysterically when he penetrated her as the other man prepared to join in.

The dormitory's resident assistant first took the matter to the dean of students, after another female student said that the football player had raped her, too. The dean, Henry Toutaine, brought disciplinary charges against the two men. But under pressure from the athlete's friends, Ms. Schmidt said, the other woman withdrew her complaint. It would be Ms. Schmidt's word alone against the men's word that the sex had been consensual. In Fordham's in-house judicial system, the dean himself was the investigator, judge, and jury.

The dean heard from different students. But he had no subpoena power and none of the investigative tools of law enforcement.

Meanwhile, Ms. Schmidt said, she became an outcast and a target of harassment by the accused and their friends — with obscenities shouted in public places, food thrown at her in the cafeteria and banging at her dormitory door in the night.

On the morning of April 3, 1990, she said, the dean telephoned her to say he had decided that he could not prove anything either way and that the charges against the men would be dropped. She said he had also told her that the men were threatening to sue the school if disciplinary action was taken against them.

She left school the same day. "I was faced with this betrayal by a huge institution which is supposed to stand for what is right," Ms. Schmidt said.

The people involved are no longer at Fordham. Mariellen Gallagher, a university spokeswoman, said that now, an administrator would stand by the student. "I can't say whether the outcome would be any different today," she said. "But Ms. Schmidt might have felt more support."

Mr. Toutaine, who directs judicial programs at Gustavus Adolphus College in St. Peter, Minn., said he could not recall specifics and was constrained by confidentiality.

"I personally believe that campus judicial systems attempt to do the right thing," he said. "Do I think my judgment is perfect? No."

Ms. Schmidt filed a police report that summer, she said, but she was advised to put the incident behind her.

Now a radio disk jockey near Washington, she went through years of depression until confronting the events at Fordham in therapy. She said she wanted her name used in this story to show how far she had come.

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Photographs by [illegible] for The New York Times

Campus justice systems deal with many cases in which alcohol is a factor. A flier for an Oxford, Ohio, bar advertises special events for students at Miami University.

The student judicial office at Miami University in Oxford, Ohio. Many Americans are unaware that a separate judicial world operates at most of the nation's 3,600 colleges.

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The Chronicle of Higher Education
Date: April 26, 1996
Section: Students
Page: A49

Education Department Starts Monitoring Campus Crime Reports

By Kit Lively

Six years after Congress enacted a law requiring colleges to publish reports about campus crime, the U.S. Department of Education is taking steps to monitor how well the institutions comply.

However, the move is not likely to silence critics who say the department does too little to insure that the public is informed about campus crime. The new policies call for officials to check only whether colleges have prepared the reports. The department will not examine the data for accuracy unless it receives a formal complaint.

David A. Longanecker, Assistant Secretary for postsecondary education, says the department doesn't have the money or the staff to visit campuses routinely to check their police files against the reports.

"We are dedicated to doing this as best as we can within the limited resources we receive," he says. "This law did not contemplate an aggressive role for the department."

Campuses are required to hire outside auditors to conduct annual reviews of their compliance with federal regulations governing student-aid programs. The new policies will specify that these auditors confirm the publication of the crime information.

At present the department checks to make sure the reports have been published only when it reviews a college's compliance with federal regulations. This happens to about 700 institutions a year, usually in response to financial or administrative problems, the department says.

Formal complaints that trigger a close look at the crime statistics themselves are much rarer. Mr. Longanecker says he can count such instances on the fingers of both hands.

This month the department responded to a complaint at Moorhead State University by sending two investigators to the campus for a week to check the accuracy of its crime figures. The complaint had been filed by a former student, who charged that the college was not following federal definitions of some crimes. She also said some numbers reported for some years were not consistent with figures published elsewhere.

Moorhead officials say they intended to comply with the law and that discrepancies in the reports were due to confusion over which definitions of the crimes were required.

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The Student Right-to-Know and Campus Security Act of 1990 authorizes a range of punishments for colleges that violate the law, including the withdrawal of federal funds. Mr. Longanecker, however, expects to use less-harsh sanctions, such as fines. The main goal, he says, will be to correct any errors that investigators find.

No colleges have been punished for violating the law since it took effect in 1992, he adds.

Critics have accused the Education Department of acting too slowly in carrying out the campus-crime law. It waited until 1994 to publish its final regulations telling colleges how to prepare the reports, and it has taken two more years to come up with an enforcement mechanism.

"Basically, we gave the institutions some time to get their act together," says Mr. Longanecker. "Now the time has come to make sure they are doing what the law requires. We are trying to do so in a fashion that is not punitive or burdensome for the institutions."

By the end of this year the department plans to complete a report to Congress on the extent of crime at colleges, he says. The law specified that the report was to have been submitted last year, but Mr. Longanecker says the department didn't have the resources to complete it then.

Mark Goodman, executive director of the Student Press Law Center, agrees that the Department of Education cannot afford to check every college's police logs. But department officials should use their positions as bully pulpits to advocate accurate reporting, he argues.

"Virtually every college newspaper or editor we talk to who is writing about campus crime says they are almost positive that the statistics are underreported," he says. Student journalists are particularly concerned about crimes that are reported to counselors or deans but not to police, or are handled in closed campus hearings, he says. Sex offenses commonly fall into these categories.

Police on campuses around the country say the annual reports are only as accurate as the reports they receive from crime victims.

Safe Campuses Now Inc., a non-profit watchdog group, is pushing for more states to follow the lead of Georgia and Tennessee, which have passed laws requiring local police to note on their crime reports when the victims are students, and to name their institutions. Doing so would make it easier to keep track of off-campus crime that affects students, says Nancy Zechella, executive director of the group.

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http://chronicle.com
Title: Education Department Starts Monitoring Campus Crime Reports
Published: 96/04/26

The Chronicle of Higher Education
Date: April 26, 1996
Section: Students
Page: A37

Survey of Campus Crime Reveals Steep Increase in Drug Arrests

By Kit Lively

Arrests for drug offenses on the nation's campuses rose sharply in 1994 -- the third straight year with a significant increase. Arrests for underage drinking or other alcohol-related offenses also went up markedly, *The Chronicle* has found.

Although some recent studies indicate that drug use by students has increased only slightly in this decade, aggressive policing and a greater willingness among students to report drug infractions by their peers have raised the arrest rate, college officials say.

"Part of the increase might be due to awareness. Part might be enforcement. Part might be that more police have arrest authority," says Douglas F. Tuttle, director of public safety at the University of Delaware and president of the International Association of Campus Law Enforcement Administrators.

He and other college and police officials don't rule out the possibility that drug use is rising as well.

"Students are getting tired of living next door to someone who smokes marijuana constantly," says Sgt. Roberta Boyd, of the police department at Northwest Missouri State University, where arrests jumped to 37 in 1994 from two in 1993. "We got more tips, and we made arrests off those tips."

Arrests for alcohol-related offenses had risen less than 1 per cent in each of the two years before the 1994 increase of 5.6 per cent.

For offenses involving violence, *The Chronicle's* annual survey of crime at colleges and universities found several separate trends. Murders and forcible-sex offenses rose sharply in 1994. Robberies increased slightly. But aggravated assaults declined, and burglaries and other property crimes decreased for the third consecutive year.

Colleges that receive federal funds are required by law to prepare annual reports on campus crime and to make them available to their students and employees. The reports must include the numbers of arrests made for violations of drug, alcohol, and weapons laws.

For the other categories of crime, the reports include the number of incidents, not arrests. Since 1993, *The Chronicle* has collected and analyzed the information that colleges provide.

The Chronicle asked nearly 850 colleges, each with more than 5,000 students, to submit copies of their crime reports; 831 did so.

The reports provide a snapshot of crime on large campuses, although many experts say the statistics are not precise enough to be definitive.

For 1994, the colleges reported a 23-per-cent increase in the number of arrests for producing, using, or selling illegal drugs. This followed increases of 34 per cent in 1993 and 46 per cent in 1992. (Because of fluctuating enrollments at some colleges and the refusal of others to provide statistics, each year's *Chronicle* survey contains slightly different groups of institutions.)

Depending on the crime, the campus statistics either reflect or run counter to national trends.

The Federal Bureau of Investigation reported last November that violent crimes -- murder, forcible-sex offenses, robbery, and aggravated assault -- had decreased from 1993 to 1994, as had burglaries and motor-vehicle thefts. The colleges, however, showed a 12-per-cent increase in forcible-sex offenses. (For a detailed explanation of the various offenses, see "F.B.I. Definitions of Crime Categories.")

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Experts on campus crime attribute much of this rise to increased reporting by victims and to colleges' filing more-complete reports. They caution, however, that sex offenses are among society's most underreported crimes, and so any statistics measuring them are inevitably incomplete.

A 15-per-cent increase in non-forcible-sex offenses on campus appears partly to reflect confusion about what crimes to include in the category. The F.B.I. defines non-forcible-sex offenses as statutory rape and incest. Many campuses, however, also count offenses such as public lewdness, and others follow the definitions used in state statutes.

Such inconsistent interpretations, combined with the low numbers reported by some colleges, make some people skeptical about the accuracy and comparability of the statistics. But advocates of the reports say they remain the best available indicators of the broad trends on campuses.

A bill now in Congress addresses some of the criticism by requiring colleges with police or security departments to keep daily logs of reported crimes. The logs, which would be open to the public, would include all crimes that are reported, not just the 10 categories that colleges are now required to track. One complaint about the current law is that it excludes larceny, the most common campus crime.

Supporters of the bill say requiring such a log would provide a check against underreporting. Some college police officials, however, say the bill would do nothing to encourage victims to report crimes. This reluctance, they say, is the main cause of inaccuracies in the annual reports.

Experts on crime, including the F.B.I., warn against using the statistics to rank the safety of colleges. Too many variables can skew the numbers, they say. Colleges that have hospitals or other facilities used by the public may have more crime, for example. Those with dormitories are far more likely to have burglaries than are commuter institutions.

Higher crime numbers also can mean that one college reports incidents more accurately than do other colleges in its vicinity. Location -- urban versus rural -- accounts for many of the differences among institutions.

Max L. Bromley, associate director of the police department at the University of South Florida, says several studies have found that campuses generally are safer than the communities around them. And most parents are realistic about the existence of crime on campuses, he adds.

"Parents at orientation will say, 'I'm glad to hear that. I listened to it and will reinforce it,'" he says. "They know this isn't Universal Studios."

Mr. Tuttle, Delaware's public-safety director, says parents and students need to look beyond the statistics and read the brochures that colleges are supposed to provide on how they handle safety, including whether they offer such services as late-night shuttle buses.

Students themselves need to take some responsibility, too, he says: If they don't lock their doors when they go to brush their teeth, they shouldn't be surprised if some valuables disappear.

The rise in drug arrests did not surprise police officials on campuses that reported big increases. Whether they were at Arizona State University, the University of Montana, or the University of Maryland at College Park, the police said they believed that students, residence-hall advisers, and law-enforcement officers were lowering their tolerance for drug use.

"We have had instances of one roommate turning the other one in because they didn't want to get involved in it," says Sgt. Richard Thurman, of the University of Montana police.

Police officers on some campuses say students are being less discreet about their drug use as well. Lieut. Michael Avallone, of the University of Connecticut police, says students whose cars have been stopped had drugs on the seat next to them. Several officers say that they once might have confiscated the drugs and given the students a warning, but that now they make arrests.

Reports on drug use by students show a slight increase. One survey of 1,500 students, by the University of Michigan's Institute for Social Research, found that the proportion of those who said they had used marijuana within the past year had risen to 31 per cent in 1993 from 29 per cent in 1991.

As with drug arrests, the rise in arrests for alcohol violations may be due in part to more vigilance by police. But officials on several campuses say the arrests represent only a portion of alcohol abuse.

The University of Nevada at Reno, for example, reported only 13 arrests for violations of state alcohol laws in 1994. But a footnote added: "Many persons received misdemeanor citations for alcohol violations. Alcohol was also a contributing factor in most student disciplinary incidents." It noted that in 1994, 572 disciplinary cases handled by the university had involved alcohol violations.

Several colleges, such as Frostburg State and Creighton Universities, said their numbers for alcohol infractions actually were for civil citations, not criminal arrests.

What's more, police officers say that the figures for drug arrests include outsiders who come to the campus to sell illegal substances, and that alcohol arrests include visitors to parties and athletic events.

Alan J. Lizotte, executive director of the Consortium for Higher Education Campus Crime Research at the State University of New York at Albany, makes another point: "Rape, aggravated assault, robbery, and larceny are heavily drug- and alcohol-related," he says. "By cracking down on those sorts of things, they can reduce other crimes. And in the longer run, students will get the message, and alcohol and drug crimes will go down, too."

The sex-crimes categories were especially notable for variations in reporting. The University of Minnesota-Twin Cities and the University of Wisconsin at Madison went further than most in following the letter of the law. Both counted sexual assaults reported to counselors and residence-hall staff members as well as to the police.

Minnesota reported 46 forcible and non-forcible-sex offenses for 1994, and Wisconsin reported 27 -- far higher numbers than other campuses.

Neither campus, however, distinguished between forcible and non-forcible offenses. Sgt. Edith M. Brogan, who runs the crime-prevention office on the Madison campus, says making such a distinction can be hard, especially with date and acquaintance rapes.

"The reality is, What is forcible?" she asks. "Is it when someone intimidates someone? Holds them? Hits them? Some people are mentally intimidated enough to submit. Is that forcible? I think so. It's a very difficult issue to define in little pigeonholes."

People who study campus crime say colleges can encourage reporting by acknowledging that sex offenses occur and making it known that victims will be treated respectfully. They note that while this may drive a college's statistics up, it is healthier for the campus in the long run.

"When campuses advertise about rape and have rape-awareness hotlines, they will get more reports," Mr. Lizotte says. "So 'more,' in that sense, is a good thing. They are getting a larger percentage of people reporting."

Ms. Brogan adds, "I still think it is real important for us to tell people [about crime] and not pretend that we are a completely safe haven. That is not smart."

Douglas Lederman and D'Lena M. Ambrose contributed to this article.

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http://chronicle.com
Title: Survey of Campus Crime Reveals Steep Increase in Drug Arrests
Published: 96/04/26

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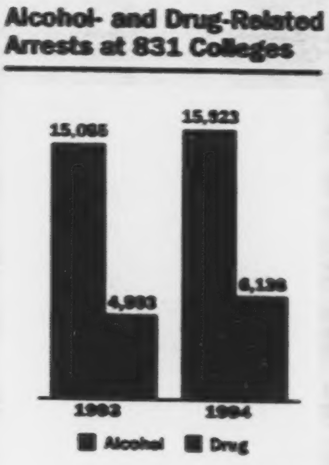
Alcohol- and drug-related arrests at 831 colleges, 1993-94



SOURCE: Chronicle reporting

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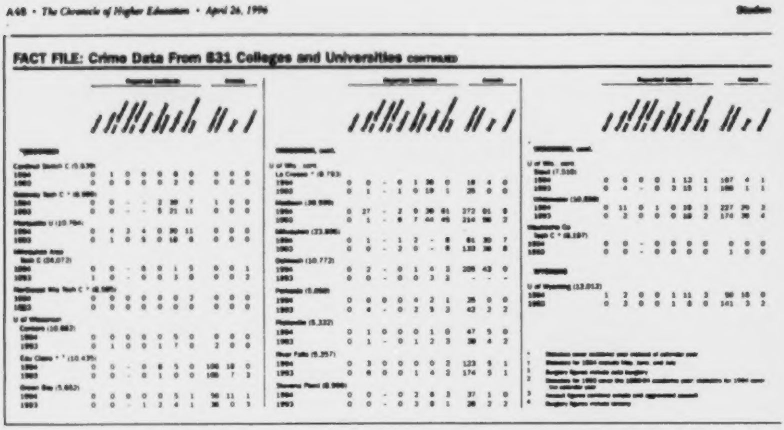
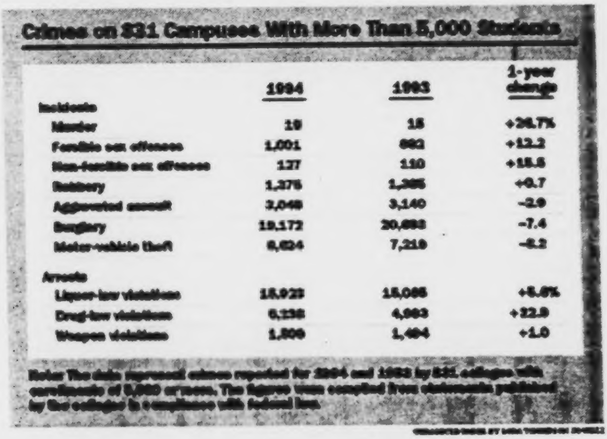
TEXAS, cont.										
Lee C * (5,511)										
1984	0	0	–	0	0	0	4	0	0	0
1983	0	0	–	0	0	2	2	0	0	0
McLennan CC (5,829)										
1984	0	0	0	0	0	1	2	0	0	0
1983	0	0	0	1	0	0	1	0	0	0
Midwestern State U 3 (5,796)										
1984	0	0	–	0	2	17	0	0	0	3
1983	0	0	–	0	6	11	0	7	0	1
Mountain View C (5,312)										
1984	0	0	0	1	0	0	24	0	0	0
1983	0	0	0	0	0	0	4	0	0	0
North Harris Montgomery CC Dist (17,887)										
1984	0	0	–	0	0	13	3	0	0	0
1983	0	1	–	0	1	0	4	0	1	3
North Lake C (6,751)										
1984	0	0	–	0	0	3	1	0	1	1
1983	0	0	–	0	0	3	1	0	0	0
Palo Alto C (5,829)										
1984	0	0	–	0	0	28	3	0	0	0
1983	0	0	–	0	0	32	1	0	0	0
Prairie View A&M U (5,848)										
1984	0	1	–	1	0	72	13	–	–	–
1983	0	5	–	0	[illegible]	100	16	–	–	–
Richland C (12,603)										
1984	0	0	0	3	1	1	4	1	0	0
1983	0	0	0	0	0	1	3	1	2	1
Saint Philip's C (6,732)										
1984	0	0	–	0	1	24	1	0	0	1
1983	0	0	–	1	0	7	0	0	0	1
Sam Houston State U * (12,800)										
1984	0	0	0	0	2	5	3	14	0	1
1983	0	0	0	1	1	6	5	5	12	0
San Antonio C (18,944)										
1984	0	0	–	0	1	41	1	1	0	0
1983	0	0	–	2	1	71	14	2	0	0
San Jacinto C Dist * ([illegible])										
1984	0	0	–	0	1	3	0	1	0	1
1983	0	0	0	0	2	1	1	0	0	0
South Plains C (5,738)										
1984	0	0	0	0	0	10	0	2	0	0
1983	0	3	1	0	0	11	0	0	0	3
Southern Methodist U (8,831)										
1984	0	2	–	0	2	6	0	0	0	2
1983	0	1	–	0	0	11	7	0	0	0
SW Texas State U †† (20,879)										
1984	0	4	1	2	2	60	0	74	16	0
1983	0	1	0	2	5	64	6	117	7	1
Stephen F Austin State U * (12,493)										
1984	0	2	–	0	7	29	0	15	18	1
1983	0	0	–	4	4	61	4	19	6	5
Tarleton State U (6,495)										
1984	0	0	–	1	2	15	0	3	0	1
1983	0	0	0	0	2	10	0	0	0	1
Tarrant Co JC * (27,383)										
1984	0	0	–	0	0	10	16	0	1	1
1983	0	0	–	0	1	7	0	0	2	1
Texas A&M U (42,524)										
1984	1	2	0	2	8	73	8	230	25	16
1983	0	2	0	1	4	90	13	274	18	13
Kingsville * (6,574)										
1984	0	0	–	1	4	46	0	0	0	0
1983	0	0	–	0	1	41	1	1	0	0
Texas Christian U (6,822)										
1984	0	0	0	4	2	18	2	65	4	0
1983	0	0	0	0	2	22	1	43	3	7
Texas Southern U * 3 (10,041)										
1984	0	0	–	13	32	23	17	–	–	–
1983	0	0	–	11	28	32	26	1	0	7
Texas Tech U (24,007)										
1984	0	0	0	1	1	94	0	78	12	7
1983	0	3	–	1	4	84	10	14	2	5
Texas Woman's U (5,702)										
1984	0	1	–	1	0	3	0	10	1	1
1983	0	1	0	0	0	1	0	18	2	2
Tyler JC (6,007)										
1984	0	0	0	0	0	14	2	–	–	–
1983	0	0	0	0	0	11	3	–	–	–
U of Houston										
Main campus (32,124)										
1984	0	4	0	13	7	50	37	0	0	0
1983	0	1	0	9	12	9	39	2	1	0
Clear Lake (7,184)										
1984	0	0	0	0	0	1	1	0	0	0
1983	0	0	–	0	0	0	0	0	0	0
Downtown 3 (7,277)										
1984	0	1	–	0	0	4	11	20	1	2
1983	0	0	–	0	0	6	7	30	0	3
U of North Texas (25,7[illegible])										
[illegible]	0	[illegible]	–	4	7	21	2	0	4	3
TEXAS, cont.										
U of Texas										
Arlington ([illegible])										
1984	0	3	0	2	2	60	8	50	25	18
1983	0	2	0	4	0	19	7	84	13	22
Austin ([illegible])										
1984	0	1	0	1	3	23	30	100	38	12
1983	0	2	0	4	12	34	29	61	28	11
Dallas ([illegible])										
1984	0	0	0	1	2	2	0	3	3	0
1983	0	0	–	0	0	5	0	2	0	0
El Paso ([illegible])										
1984	0	1	0	3	12	15	12	0	13	3
1983	0	0	–	0	3	20	23	17	4	8
Pan American ([illegible])										
1984	0	1	–	0	1	61	12	0	4	0
1983	0	0	–	0	3	60	12	3	0	2
San Antonio ([illegible])										
1984	0	1	0	1	0	30	7	40	11	3
1983	0	2	0	0	0	5	3	28	4	4
West Texas A&M U ([illegible])										
1984	0	0	1	0	3	40	1	4	2	3
1983	0	1	0	0	3	48	4	5	0	8
[illegible]										
Brigham Young U ([illegible])										
1984	0	4	–	0	1	13	5	10	1	0
1983	0	0	–	1	4	15	10	16	5	2
Salt Lake CC (17,437)										
1984	0	0	–	0	1	3	1	1	0	0
1983	0	0	–	0	2	0	0	0	2	0
U of Utah (27,113)										
1984	0	3	–	2	6	25	10	104	102	2
1983	0	3	–	3	0	51	6	177	46	3
Utah State U ([illegible])										
1984	0	5	0	0	2	9	4	30	10	1
1983	0	4	0	0	0	0	3	24	2	1
Utah Valley State C ([illegible])										
1984	0	1	–	0	2	23	1	2	0	0
1983	0	0	–	0	0	30	0	1	0	0
Weber State U ([illegible])										
1984	0	0	0	0	3	3	1	3	0	0
1983	0	0	0	0	0	28	0	1	0	0
[illegible]										
U of Vermont ([illegible])										
1984	0	2	0	0	1	25	2	38	32	0
1983	0	4	0	1	2	13	5	10	0	0
[illegible]										
C of William and Mary ([illegible])										
1984	0	3	–	0	5	13	1	49	13	0
1983	0	1	–	1	3	13	3	30	4	1
George Mason U ([illegible])										
1984	0	11	0	3	25	79	3	42	60	2
1983	0	0	–	0	21	83	2	74	74	0
Hampton U ([illegible])										
1984	0	0	–	3	5	33	1	0	3	3
1983	0	0	–	2	1	33	2	7	9	1
James Madison U ([illegible])										
1984	0	1	0	1	2	46	0	63	18	0
1983	0	1	1	1	1	60	0	23	16	0
John Tyler CC * ([illegible])										
1984	0	0	–	0	0	0	0	0	1	0
1983	0	0	–	0	0	0	2	0	0	0
J Sargeant Reynolds CC ([illegible])										
1984	0	0	0	0	0	0	3	0	0	1
1983	0	0	0	0	0	1	0	5	0	0
Norfolk State U ([illegible])										
1984	2	0	–	1	15	21	4	0	2	3
1983	0	0	–	5	16	45	4	0	2	0
Northern Virginia CC ([illegible])										
1984	0	0	–	1	0	0	2	0	0	0
1983	0	1	–	0	16	0	2	0	0	1
Old Dominion U ([illegible])										
1984	0	0	0	1	1	17	23	7	5	0
1983	0	0	0	0	0	37	13	2	0	0
Radford U ([illegible])										
1984	0	2	0	0	1	2	0	11	12	0
1983	0	3	0	0	0	4	0	5	4	4
Thomas Nelson CC ([illegible])										
1984	0	0	–	0	1	0	0	1	0	0
1983	0	0	–	0	0	0	0	1	0	0
Tidewater CC * ([illegible])										
1984	0	0	–	[illegible]	0	1	0	0	0	[illegible]
1983	0	1	–	1	0	1	2	2	5	[illegible]
U of Virginia ([illegible])										
1984	0	5	0	2	0	30	0	4	10	[illegible]
1983	0	4	0	3	0	23	11	1	0	[illegible]
Va Commonwealth U ([illegible])										
1984	0	0	0	5	7	35	11	1	32	18
[illegible]	0	1	0	4	0	13	0	170	18	10
VIRGINIA, cont.										
Virginia Polytechnic Inst ([illegible])										
1984	0	2	–	1	17	39	2	13	0	2
1983	0	1	0	2	20	23	3	19	5	0
Virginia Western CC (6,213)										
1984	0	0	0	0	0	0	1	0	0	0
1983	0	0	–	0	1	0	0	–	–	–
[illegible]										
Bellevue CC (10,091)										
1984	0	0	–	0	2	1	0	0	0	–
1983	0	0	–	0	2	7	2	–	–	–
Central Wash U ([illegible])										
1984	0	2	0	0	3	30	4	54	18	0
1983	0	2	1	0	2	23	4	66	7	1
Clark C ([illegible])										
1984	0	0	0	0	0	1	0	0	0	0
1983	0	0	–	0	0	1	2	0	0	0
Columbia Basin C (6,071)										
1984	0	0	0	0	0	0	2	0	2	1
1983	0	0	–	0	0	0	0	1	2	1
Eastern Wash U (8,431)										
1984	0	1	0	0	1	13	0	3	0	0
1983	0	2	–	0	1	6	1	0	2	0
Edmonds CC 3 ([illegible])										
1984	0	0	–	–	4	–	–	1	0	0
1983	0	0	–	–	11	0	0	0	0	0
Everett CC ([illegible])										
1984	0	0	–	0	0	3	0	0	0	0
1983	0	0	–	0	0	5	1	0	0	0
Green River CC ([illegible])										
1984	0	0	0	0	0	3	0	0	0	0
1983	0	0	0	1	0	6	1	0	0	0
Highline CC * ([illegible])										
1984	0	0	–	0	0	0	4	0	0	0
1983	0	0	–	0	0	0	3	0	0	0
North Seattle CC ([illegible])										
1984	0	0	0	0	0	0	1	0	0	0
1983	0	1	0	0	0	0	0	0	[illegible]	0
Olympic C ([illegible])										
1984	0	0	0	0	1	0	0	0	[illegible]	0
1983	0	1	0	0	0	2	0	0	0	0
Pierce C * ([illegible])										
1984	0	0	0	0	1	0	1	0	0	2
1983	0	0	0	0	0	1	3	0	0	0
Renton Tech C ([illegible])										
1984	0	0	–	0	0	1	4	0	0	0
1983	0	0	–	0	0	4	0	0	0	0
Seattle Central CC ([illegible])										
1984	0	0	0	–	2	0	3	0	0	0
1983	0	0	0	0	0	5	4	0	0	0
Seattle U ([illegible])										
1984	0	0	–	0	0	15	1	0	0	0
1983	0	0	–	1	3	6	2	0	0	0
Shoreline CC 3 ([illegible])										
1984	0	0	–	0	0	5	3	1	2	2
1983	0	0	–	0	6	5	27	11	2	6
Skagit Valley C * ([illegible])										
1984	0	0	–	0	0	0	0	–	–	–
1983	0	0	0	0	1	0	0	–	–	–
Spokane CC * 4 (6,211)										
1984	0	0	–	0	0	0	4	0	0	0
1983	0	0	–	2	0	62	1	0	0	0
Spokane Falls CC * 4 ([illegible])										
1984	0	0	–	0	0	0	0	0	0	0
1983	0	0	–	0	0	30	0	0	0	0
Tacoma CC ([illegible])										
1984	0	0	–	1	3	4	3	2	1	0
1983	0	0	–	0	1	4	3	0	0	0
U of Washington ([illegible])										
1984	0	5	–	4	0	112	32	60	34	2
1983	0	4	0	0	11	181	6	66	46	3
Washington State U ([illegible])										
1984	0	0	0	1	4	45	12	65	41	2
1983	0	0	0	3	4	39	6	61	50	0
Western Washington U ([illegible])										
1984	0	1	0	0	0	16	5	64	18	1
1983	0	1	2	0	1	33	6	100	7	2
[illegible]										
Fairmont State C 6 ([illegible])										
1984	[illegible]	[illegible]	[illegible]	0	3	0	0	2	1	0
1983	[illegible]	[illegible]	[illegible]	0	0	7	1	0	0	0
Marshall U ([illegible])										
1984	[illegible]	[illegible]	[illegible]	0	0	0	3	0	7	0
1983	[illegible]	[illegible]	[illegible]	0	0	1	3	0	3	1
West Virginia U ([illegible])										
1984	0	0	0	–	3	21	0	44	0	1
1983	0	4	–	1	5	36	9	48	0	1



A48 • The Chronicle of Higher Education • April 26, 1996

FACT FILE: Crime Data From 831 Colleges and Universities

Crimes on 831 campuses with more than 5,000 students, 1993-94



Crimes on 831 Campuses With More Than 5,000 Students

	1994	1993	1-year change
Incidents			
Murder	19	15	+26.7%
Forcible sex offenses	1,001	892	+12.2
Non-forcible sex offenses	127	110	+15.5
Robbery	1,375	1,365	+0.7
Aggravated assault	3,048	3,140	-2.9
Burglary	19,172	20,693	-7.4
Motor-vehicle theft	6,624	7,219	-8.2
Arrests			
Liquor-law violations	15,923	15,066	+5.6%
Drug-law violations	6,138	4,993	+22.9
Weapon violations	1,509	1,494	+1.0

Note: The data represent crimes reported for 1994 and 1993 by 831 colleges with enrollments of 5,000 or more. The figures were compiled from statements published by the colleges in compliance with federal law.

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the Breeze - James Madison 2-15-96

Date rape often scars, traumatizes victims

College can supply some of the best times of students' lives. But for many students, it can also provide the most traumatic, scarring experience of their lives.

Thirty-five percent of all college-aged women will be victims of sexual assault during their college years, according to the Illinois Coalition Against Sexual Assault's booklet Sexual Violence Facts and Statistics.

Hillary Wing-Lott, JMU sexual assault education coordinator, said this figure is significantly lower than the actual number of assaults committed each year because so many rapes remain unreported.

Judicial Coordinator Mike Way said no rapes were reported to the JMU judicial office this fall, although there were reports of sexual assault. He said about five were reported during spring semester 1995.

Because the sexual assault education coordinator's office operates separately from the judicial office, these numbers do not include the confidential reports made to Wing-Lott.

"I don't think anyone should confuse the number of reported sexual assaults with the actual number of assaults that occur,"ÈWay said.

According to the American College Health Association's pamphlet Acquaintance Rape, nine in 10 acquaintance rapes are never reported. And the Illinois coalition claims 84 percent of all sexual assaults are committed by acquaintances.

Way attributed the high number of unreported rapes to a complex combination of reasons. "The first may be that the victims are ashamed. Secondly, many of the victims assume some of the guilt themselves, thinking that they were at fault. "Also, the majority know their attackers, so it's a feeling of not wanting anyone to get in trouble. Many people are either intimidated by the process, or they have been conditioned to believe that nothing good will come of it. The process itself is intimidating," Way said.

But rape continues long after the physical act ends. "Sexual assault victimization surfaces in individuals in many, many ways through the years - poor self images, addictions, inabilities to maintain healthy relationships, trust issues," Wing-Lott said. For victims to move past this stage and live healthy lives, they must find some way to cope with the overwhelming emotions they experience, according to Wing-Lott.

"Society has given a very strong message that the victim is blamed," Wing-Lott said. She described most victims' initial reactions as a mix of fear, guilt, anger, distrust and loss of control. Dealing with such a complex blend of feelings is a slow, painful process and is different for every person, according to Wing-Lott.

"Our hope is that person [the victim] has one person they trust enough to go to for help," she said.

"I'm not advocating that every single sexual assault victim has to go through therapy. Therapy is only good if the client chooses the path they want to take. But

[illegible]

they always need somebody," she said.

JMU students who have been victims of sexual assault have a number of options. If they turn to Wing-Lott, the entire conversation remains completely confidential. If they don't wish to confide in her, she can direct them to a peer mentor or the Counseling and Student Development Center.

Victims can go to the hospital or Health Center to be tested for pregnancy and sexually transmitted diseases. They may choose to have a physical evidence recovery kit taken in case they choose to prosecute the attacker, Wing-Lott said.

Students always have the option of reporting assaults to the campus judicial system, campus police or the Harrisonburg police.

According to Way, when a victim reports a sexual assault to him, he or she may choose criminal prosecution in local courts, civil prosecution in local courts and judicial or mediation procedures at JMU. The victim may pursue any or all of these options. Reporting the attack to Way does not require the victim to bring formal charges against his or her attacker. But, if the victim chooses to pursue the charges, he or she has the right to learn the results of the hearing. Students convicted of rape may be suspended from JMU for one year.

Wing-Lott stressed the importance of letting the victims themselves choose their own courses of action for healing. "We inform them of their rights. We're always giving the control back," she said.

Many instances of sexual violence originate from a lack of respect among students, both for themselves and for each other, according to Wing-Lott. She said she sees heavy drinking as a major factor in this disrespect.

Despite the statistics about rape among college-aged individuals, Wing-Lott said she feels proud of JMU's increasing awareness of sexual violence. "More and more students are saying they want this to stop, and they want to help."

The Campus Assault Response Helpline is a prime example of students volunteering their own time and energy to help deal with the problem of sexual assault at JMU. "Our role is to listen to what they're saying - to empathize for their feelings and give them their options," CARE Chairperson junior Shera Beadner said. Like Wing-Lott, Beadner emphasized the confidentiality of all calls.

The helpline, X6411, handles a wide range of calls, from crisis situations to concerned friends of victims. The volunteers operate 24 hours a day from Friday noon to Monday noon and can be reached via voice mail during the rest of the week.

Wing-Lott said the ultimate goal to help victims is for them to consider themselves humans again instead of victims. "It's getting to a point where the assault isn't encompassing their whole being, and the anger doesn't consume them anymore."

bySenior Writer Kara Ogletree

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Comments & Suggestions to: breeze@breeze.jmu.edu
Thanks </ht

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Responses from readers: Are colleges being truthful about the extent of crime on their campuses?

The latest responses appear first.

From Don Kreger
President
New York State University Police, Local 1792
American Federation of State, County, and Municipal Employees, Council 82

The reporting of crime statistics to the Federal Bureau of Investigation by college and university police departments is nothing new, but the federal requirement that campuses make the statistics public and available to the campus community and to potential students is. There are problems with reporting, such as the ability to be able to properly compare and place in context the reported statistics with what other campuses report. There are also problems in that only a small number of crime categories are required to be reported. What about larcenies, vandalism, or bias crimes? They aren't required to be reported.

As to the question of whether campuses report accurately, I'd say it's a mixed bag. Some campuses might argue that they don't know how to classify crimes. I don't think that's a very good excuse. Most campuses probably do report accurately. But, from my experience as state union president for the State University of New York's campus patrol officers and detectives, I know that campuses do play games with the crime statistics. I've seen where campuses have reported rapes as something less, and I've seen how campuses change the rules as to how officers are allowed to classify crimes just so that the more serious crimes are reported in fewer numbers.

So, there are problems from both sides, but people need to know what's going on at their campuses, and while not perfect from any perspective, the situation is better than it used to be.

posted 4/23,
4:30 p.m., E.D.T.

Summary of
"Buckley Amendment, Censorship Still Problems for College Newspapers"
A study conducted by Tom Dickson, Associate Professor; Ivan Holmes, Assistant Professor; & Liz Minden, Instructor
Department of Communications, Southwest Missouri State University
December, 1994

Summary prepared by S. Daniel Carter, Regional Vice President
Security On Campus, Inc.
Prepared for June, 1996 Congressional hearings on "Crime Reporting Practices on College Campuses"

CAMPUS CRIME REPORT ACCESS

Access To Reports-

30.0% of student newspapers requesting access to incident reports are "given direct access to the actual campus incident reports."

59.6% of student newspapers given access to incident reports "stated that names of students are deleted before the reports are released."

Denial Of Access-

33.3% of denials of access stated that the given reason was that it was not a public institution.

30.4% of denials of access stated that the institution cited FERPA.

11.8% of denials of access stated that the institution claimed that the reports were not "covered by the state open records law."

24.5% of denials of access cited other reasons.

ACCESS TO STUDENT JUDICIAL PROCEEDINGS

Access To Proceedings-

53.4% of the student newspapers surveyed "were provided no access to proceedings or to information about student disciplinary/judicial proceedings."

21.8% were provided "access to both proceedings and to rulings."

12.4% were provided "access to rulings but not proceedings."

09.4% were provided "summaries and/or edited transcripts."

03.0% were "provided access to proceedings but not rulings."

Denial Of Access-

30.7% of newspapers denied access to judicial proceedings "reported that they were denied access because the institution was private and access was not required."

27.1% were told that FERPA did not allow access.

07.1% were told that the state's open meetings laws did not apply.

12.1% were given other reasons.

22.9% were given no reason.

OVER

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TYPE & ENROLLMENT DIFFERENCES

Public v. Private-

95.2% of public institution's newspapers ran crime information while 83.1% of private institution's papers did.

43.0% of public schools had direct access to incident reports as opposed to 16.5% of private institutions.

"Editors at private institutions were more likely than editors at public ones to state that incident reports were not released (32.4% vs. 13.1%)

74.7% of private institutions deleted students names as opposed to 46.5% of public institutions.

Enrollment-

Enrollment	% of newspapers running campus crime information
<2,500	80
2,500-5,000	87
>5,000	100

Enrollment	% of newspapers given direct access to campus incident reports
<2,500	15
2,500-5,000	29
5,000-10,000	43
>10,000	45

Enrollment	% of newspapers given NO access whatsoever
<2,500	20
>2,500	05

Enrollment	% of institutions where names were omitted
<2,500	76
2,500-5,000	67
5,000-10,000	57
>10,000	31

CONCLUSIONS

"This study found that the Buckley Amendment is still being used extensively to deny student newspapers access to campus security records, apparently about as often as was the case before it was determined that FERPA does not prevent access. We also found that a large number of newspapers still are not attempting to gain access and, thus, have not tested their institution's access policy. In any event, a large number of institutions continue to provide only condensed or summarized written versions and even oral reports about contents of records."

THE STUDY

1,498 surveys were sent out at the end of April 1994 to student newspaper editors. By mid-August of 1994, 231 of those surveys had been completed and returned. 47 were returned from institutions without a newspaper.

The overall response rate from institutions with a student newspaper was about 23%.

Buckley Amendment, Censorship Still Problems for College Newspapers

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Accepted for Publication by College Media Review
December 1994

Buckley Amendment, Censorship Still
Problems for College Newspapers

Reporting Campus Crime

The Federal Educational Rights and Privacy Act (FERPA), better known as the Buckley Amendment, requires that educational institutions receiving federal funds obtain permission of the parents (or the student if over 18) to release student records. The punishment for a violation of FERPA is loss of federal funding.

Colleges and universities soon began to use FERPA to keep from reporting campus crime statistics and to withhold crime information from student newspapers and later began to claim that FERPA protected them from allowing the media to attend campus disciplinary proceedings.[1]

Reporting of campus crime statistics became required under the Student Right to Know and Campus Security Act, signed on Nov. 9, 1990, by President Bush. The act requires campuses to collect crime data beginning July 1, 1991, and to make the data available after Sept. 1, 1992.

In March 1991 in the case of *Bauer v. Kincaid*,[2] Southwest Missouri State University **Standard** editor Traci Bauer successfully argued that the university was not compelled by FERPA to keep crime information secret. Then in November 1991, the Washington, D.C., District Court ruled in *Student Press Law Center v. Alexander*[3] that DOE could not take away funds from schools for releasing crime information, citing *Bauer* as support for its ruling.

Steve Pasternack noted that, despite the *Bauer* and *SPLC* rulings, the campus "press should not expect a post-*Bauer* tidal wave of success" in getting access to crime reports.[4] The executive director of the Freedom Forum First Amendment Center at Vanderbilt University, Paul McMasters, drew the same conclusion, noting:

> But the court decisions don't automatically guarantee access. Many college officials continue to ignore the court decisions, and even new laws.[5]

Anecdotal information also suggests that colleges are attempting to circumvent open records laws by channeling campus crime through student judicial procedures.[6] The question of whether FERPA can be used to forbid access to student judicial proceedings is still being debated. The Georgia Supreme Court ruled in 1993 that campus disciplinary proceedings and records must be open under state law; however, a Louisiana court decided in March 1994 that Louisiana law did not mandate public access. In the meantime, student journalists attempting access to campus court records have met with limited success. For example, the editor of the University of Missouri at St. Louis student newspaper was handcuffed and led away by police for trying to attend a campus judicial proceeding.[7]

Student Press Freedom

Another court case involving a Missouri student editor besides *Bauer v. Kincaid*, the *Hazelwood School District v. Kuhlmeier* case,[8] stated that school newspapers which are not public forums can be censored. Though the *Hazelwood* decision specifically applied to high school newspapers, it has caused concern for staffs of college newspapers as well.

The Student Press Law Center in Washington, D.C., has reported that the number of calls for legal help from student journalists rose 143 percent from 1988 through 1992, and calls rose another 8 percent in 1993. Almost half (47 percent) of the phone calls received came from student journalists at public colleges and universities, and another 14 percent came from students in private colleges. Only 23 percent came from public high schools. According to the SPLC, "Much of the increase is believed to be the result of the U.S. Supreme Court's 1988 decision in *Hazelwood School District v. Kuhlmeier*... ."[9]

Another kind of censorship, the theft of multiple copies of campus newspapers, has been a problem for several years,[10] but it appears to be on the increase. McMasters complained that "the reaction and response to all of this by college officials, faculty, students and prosecutors has been abysmal, for the most part."[11]

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Previous Research

Two national studies concerning access to campus crime information have been reported, both prior to *Bauer*. Shipman received responses from 107 campus police units, 63 advisers and 42 editors at 150 colleges and universities studied.[12] He found that campus police had widely different interpretations of what the Buckley Amendment requires and that only about half of the campus police agencies allowed reporters to examine the actual security records.

Shipman also found that the relationship between campus police and the campus newspaper was usually good. He assumed good relations were based partly on the fact that little contact existed between the two. One-third of the campus police administrators said the campus press checked security records irregularly or never, and only 42 percent of the newspapers checked twice of week or more often.

Dickson received responses from about 35 percent of the members of College Media Advisers.[13] He found that 74 percent of college newspapers had attempted to gain access to campus security records. Newspapers at 27 percent of the institutions had access to all campus crime reports, 61 percent had access to some reports, and about 13 percent had no access. Forty percent of the denials for access were based upon the Buckley Amendment.

Following his national study of college press freedom, Ivan Holmes reported the censorship was a problem even prior to the *Hazelwood* decision.[14] The only reported study of the effects of the *Hazelwood* ruling on the college press was conducted in the fall of 1988, just months after the ruling. Northington received responses from 221 of 797 college newspaper advisers who belonged to College Media Advisers Inc.[15] Nearly one-third of the advisers (32 percent) responded that they had received hints from administrators to avoid certain subjects in the previous year. She concluded that the first year after the *Hazelwood* ruling was not a particularly disastrous one for the college press, however.

The Current Study

Two main research questions guided the study. The first was: Are student newspapers having problems in gaining access to campus crime reports and reports of student judicial proceedings? The second was: Are newspapers having problems with prior restraint or punishment for newspaper contents. We also wanted to know if newspapers were having problems with newspaper theft.

Surveys were sent at the end of April 1994 to the "Student Newspaper Editor" at 1,498 institutions identified as public or private four-year colleges and universities. As of mid-August 1994, a total of 231 surveys were completed and returned by editors and 47 surveys were returned from institutions without a student newspaper (a response rate of 18.6%). Since only about 1,000 colleges and universities are thought to have a student newspaper, the response rate from institutions with student newspapers was most likely about 23%.

Overall Findings

Access to Campus Incident Reports

Most editors (88.7%) reported that their newspaper ran information on campus crime; however, nearly four-tenths of the editors (38.7%) did not know if the institution had an official policy concerning access to campus incident reports. More than a third of those editors who knew if a policy existed (36.2%) stated that there was no official policy.

Nearly nine of 10 editors (88.0%) reported that the newspaper had attempted to gain access to campus incident reports. Only three in 10 editors (30.0%) at such newspapers attempting access reported being given direct access to the actual campus incident reports. Nearly six in 10 editors (59.6%) who said they had access to incident reports stated that names of students are deleted before the reports are released.

One-third (33.3%) of editors who reported that access to campus incident reports was denied stated that the reason given for denial was that access was not required because it was not a public institution. Three in 10 editors (30.4%) reporting that the U.S. Family Educational Rights and Privacy Act (FERPA) was given as the reason access was denied, and slightly over one in eight editors (11.8%) stated that the reason given was that incident reports were not covered by the state open records law. About one-quarter of the editors (24.5%) stated that some other reason was given.

Only about six-tenths of the editors (59.5%) reported that the institution had provided campus crime statistics to the student newspaper; however, about one-third of the editors (34.4%) stated that they had not requested the statistics. Another 6.2% had requested them but had not received them.

About half of the editors (49.3%) stated that they had had no problem gaining access to campus incident reports provided to local police. Nearly four in 10 editors (37.9%) reported having problems occasionally, and about one in eight (12.8%) reported having problems much of the time. Access potentially may be more of a problem than the figures suggest, however, because a large number of editors evidently had not tried to gain access.

Access to Student Judicial Proceedings

Slightly more than half of the editors (53.4%) were provided no access to proceedings or to information about student disciplinary/judicial proceedings. Somewhat over one in five (21.8%) were provided access to both proceedings and to rulings, one in eight (12.4%) were provided access to rulings but not proceedings, 9.4% were provided summaries and/or edited transcripts, and 3.0% were provided access to proceedings but not rulings.

Just over three in 10 (30.7%) editors reported that they were denied access because the institution was private and access was not required. Slightly fewer editors (27.1%) were told that the Federal Family and Education Rights and Privacy Act (FERPA) did not allow it, one in 14 (7.1%) were told the state's open meetings law did not apply to such meetings, about one in eight (12.1%) were given other reasons, and about one in four (22.9%) were given no reason.

Extent of Press Freedom

Nearly three in 10 editors (28.5%) reported being told that they had been told by someone in authority at the institution not to run a story. About one in eight editors (12.4%) reported that someone in authority at the institution had told them during the year not to run an editorial or cartoon.

Almost half of the editors told not to run a story (49.3%) complied, and just over half of those editors who had been asked not to run an editorial or cartoon (52.9%) stated that they had complied with the request.

Advisers were most likely to have been the person who told the editor not to run something (either a story, an editorial or an advertisement). The adviser was named 36 times, the vice president or dean of student affairs 26 times, and the president 14 times. The publications board was named six times, and "other" 18 times.

One in 10 editors (10.0%) reported that an official at the institution had withheld a story or editorial from publication over her/his objection during the year. Whereas 3.4% reported it happened once, 2.6% reported it happened twice, and 3.9% reported it had happened 3-5 times. Fewer than one-tenth (9.2%) of the editors reported that an official had withheld an advertisement over the editor's or ad manager's objections.

About one in nine editors (11.4%) reported that she/he, members of the newspaper staff, or the newspaper itself had been punished in some way during the year for running something controversial.

Nearly half of the editors (47.6%) reported having complete freedom from prior restraint, and nearly four in 10 (38.3%) reported having substantial freedom. Another one in eight (12.3%) reported having limited freedom, and 1.8% reported having no freedom.

Just over one-fifth of the editors (20.7%) reported the newspaper had had a problem during the year with theft of large numbers of copies of the paper.

Differences Based Upon Type of Institution

Public institutions were more likely to run campus crime information than were private ones

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(95.2% v. 83.1%, significance <.01), and newspapers at public institutions were more likely to have direct access to incident reports (43.0% v. 16.5%, significance <.001). Editors at private institutions were more likely than editors at public ones to state that incident reports were not released (32.4% vs. 13.1%, significance <.001).

At institutions where records were released, editors at private institutions were more likely than editors at public ones to state that student names were deleted before campus incident reports were released by campus officials (74.7% vs. 46.5%, significance <.001). No significant differences existed, however, between public and private institutions as to whether crime statistics were provided the student newspaper (90.3% v. 90.9%).

Editors at private institutions were no more likely to have had much of a problem getting access to campus incident records held by local police (12.8% v. 12.9%, significance >.05).

Editors at private institutions were not significantly more likely than those at public ones to say that they had had a problem getting access to student judicial proceedings. Whereas 56.0% of editors at private institutions had been given no access, 51.1% of editors at public institutions gave that response (significance >.05).

Editors at private institutions were more likely than those at public ones to have been told not to run a story (37.4% v. 17.3%, significance <.001). They also were more likely to have been told not to run an editorial or cartoon (17.2% vs. 6.8%, significance <.02).

Actual censorship of a story or editorial also was more likely to have taken place at private institutions than at public ones (13.8% v. 5.7%, significance <.05). Actual censorship of an advertisement also was more likely to have taken place at private institutions (14.6% vs. 2.9%, significance <.01).

Newspapers at private institutions were not significantly more likely than those at public ones to have been punished for running something controversial, however (12.9% v. 9.7%, significance

>.05).

Editors at public institutions were more likely to report complete freedom of the press (61.5% v. 36.1%). However, editors at private institutions were more likely to report substantial freedom (41.8% vs. 33.7%) and limited or no freedom (22.1% vs. 4.8%, significance <.001. Nearly two-thirds of the private institutions (62.9%) reported having a policy of freedom of expression for the student newspaper.

Editors at public institutions were more likely than those at private ones to report that theft of newspapers had taken place (26.2% vs. 15.4%, significance <.05).

Differences Based Upon Enrollment

The larger the institution, the more likely the newspaper was to run campus crime information (<2,500, 80%; 2,500-5,000, 87%; >5,000, 100%; $p<.001$). Based upon the editors' understanding, no statistically significant difference existed based upon undergraduate enrollment concerning whether the institution had no official policy concerning access to campus incident reports (<2,500, 39%; 2,500-5,000, 44%; 5,000-10,000, 36%; >10,000, 29%) or concerning whether the policy was written (<2,500, 35%; 2,500-5,000, 24%; 5,000-10,000, 30%; >10,000, 45%; $p>.05$).

The larger the institution, however, the more likely the newspaper was to have direct access to campus incident reports (<2,500, 15%; 2,500-5,000, 29%; 5,000-10,000, 43%; >10,000, 45%), and newspapers at institutions with fewer than 2,500 students were more likely than those at other institutions to have no access (<2,500, 20%; >2,500, 5%; $p<.001$). The larger the institution, the less likely reports themselves were withheld (<2,500, 36%; 2,500-5,000, 22%; 5,000-10,000, 14%; >10,000, 7%; $p<.001$).

The larger the institution, the less likely student names were omitted when incident reports were released by campus officials (<2,500, 76%; 2,500-5,000, 67%; 5,000-10,000, 57%; >10,000, 31%; $p<.001$).

No statistically significant difference was found based upon institution size as to whether crime statistics were released when requested by the newspaper. Nearly all newspapers that requested such statistics were provided them (<5,000, 89%; >5,000, 93%; $p>.05$).

Enrollment was not significantly related to whether the newspaper had not had a problem obtaining campus incident reports from local police (<2,500, 54%; 2,500-5,000, 54%; 5,000-10,000, 47%; >10,000, 36%; $p>.05$).

Size of the institution was not significantly related to whether editors were to report that the newspaper was denied all access to student disciplinary or judicial proceedings and rulings (<2,500, 55%; 2,500-5,000, 53%; 5,000-10,000, 38%; >10,000, 66%; $p>.05$).

According to editors, theft of newspapers was more likely to have taken place at institutions with more than 2,500 enrollment (<2,500, 11%; >2,500, 28%; $p<.01$).

The larger the institution, the less likely the editor had been told by someone in authority not to run a story (<2,500, 41%; 2,500-5,000, 31%; 5,000-10,000, 16%; >10,000, 11%; $p<.001$). Editors at the smallest institutions (under 2,500) were more likely to have complied with such a request than were editors at larger institutions (<2,500, 63%; >2,500, 33%; $p<.02$).

No statistically significant difference was found concerning whether the editor had been told not to run an editorial or cartoon (<2,500, 16%; 2,500-5,000, 12%; 5,000-10,000, 4%; >10,000, 14%; $p>.05$), and no statistically significant difference was found based upon institutional size as to whether a story of editorial had been withheld from publication over the objections of the editor (<2,500, 15%; 2,500-5,000, 10%; 5,000-10,000, 2%; >10,000, 8%; $p>.05$).

The larger the institution, however, the less likely that an advertisement had been withheld from publication over objections of the editor or ad manager (<5,000, 14%, >5,000, 0%; $p<.001$).

No statistically significant difference was found concerning whether the newspaper or staff had been punished for running something controversial (<2,500, 12%; 2,500-5,000, 8%; 5,000-10,000, 16%; >10,000, 11%; p>.05).

The larger the institution, the more likely the editor was to state that complete freedom of the press existed at the institution (<2,500, 37%; 2,500-5,000, 44%; 5,000-10,000, 60%; >10,000, 63%; p<.001). Based upon the size of the institution, however, no statistically significant difference existed at private institutions concerning whether the institution had a policy of freedom of expression for the student newspaper (<5,000, 61%, >5,000, 75%; p>.05).

Comparison with Previous Research

The results from this study were compared with those reported by Dickson from his 1990 study.[16] Though the two populations sampled were different (advisers who belonged to College Media Advisers in the 1991 study and a random sample of editors in this study), a study of high school advisers, principals, and student editors found that their responses to questions concerning what had taken place at the school are quite similar.[17] A total of 166 advisers from four-year institutions responded in the 1990 study and 231 editors from four-year institutions responded in this study.

We found no statistically significant difference in the percent of newspapers that had attempted to gain access: 85% in 1990 and 88% in 1994. We also found no significant difference in whether the newspaper had gained access to campus incident reports: 13% of those attempting in 1990 and 11% in 1994 reported no access, and 27% in 1990 and 30% in 1994 reported access to all reports.

We found no statistically significant difference as to whether the Buckley Amendment was the main reason access was refused. Thirty-seven percent gave that response in 1990 and 30% in 1994. Whereas slightly fewer newspapers at public institutions cited Buckley in 1994 (47% in 1990 and 40% in 1994), the same percent of newspapers at private institutions cited the Buckley Amendment in 1990 as in 1994 (25%).

Conclusions

This study found that the Buckley Amendment is still being used extensively to deny student

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newspapers access to campus security records, apparently about as often as was the case before it was determined that FERPA does not prevent access. We also found that a large number of newspapers still are not attempting to gain access and, thus, have not tested their institution's access policy.

Newspaper editors in this study and in Dickson's 1990 study reported less access to the actual incident reports than was reported by police administrators in the study by Shipman,[18] conducted before the *Bauer* and *SPLC* rulings. We can only assume that police were overstating the extent of access provided. In any event, a large number of institutions continue to provide only condensed or summarized written versions and even oral reports about contents of records.

We were surprised to learn that so few campus newspapers had attempted to get their institution's campus crime summaries now that they are required to be made available. One would wonder why all newspapers are not attempting to gain information about campus crime. Some editors may assume that access to records or summaries will not be granted or, incorrectly in the case of newspapers at public institutions, that they won't be allowed to publish them. Neither reason should keep newspaper staffs from attempting access, however.

Possibly the most surprising finding was the number of editors who reported having access to student disciplinary or judicial proceedings. Only Georgia courts have ruled that access is required under the state's open meetings law. More research needs to be done to determine why so many editors reported having access. We wonder if policies of these institutions address access and whether access is allowed in spite of existing rules or because of them. We also were somewhat surprised at the extent of newspaper theft.

We found the extent of self-censorship when threatened by administrators somewhat alarming, particularly at public institutions. We wonder if student journalists are being intimidated or are only being deferential. Further research also is needed to find out what types of contents are being self-censored.

The figures on self-censorship somewhat detract from the figures that suggest that censorship itself is not a major problem at most institutions. That fewer than half of the editors reported that the newspaper has complete freedom from prior restraint suggests a number of editors are being intimidated even if they are not being directly censored.

The study does not present a totally bleak picture of the situation in regard to the major issues reported: access to crime information and freedom of expression. It does, however, suggest that much work needs to be done in educating editors and reporters about their responsibilities in attempting to gain access to information that is important for their readers to know. It also suggests that much work needs to be done in educating administrators and campus security officials about the right that the student newspaper has to publish such information and other information that does not put the institution in a good light.

Notes

[1] Scott Jaschik, "Journalists Contend Colleges Are Using a Privacy Law to Deny Information on Campus Crime to the Public." The Chronicle of Higher Education, April 11, 1990, pp. A22, A26.

[2] 759 F. Supp. 575.

[3] 778 F.Supp. 1227.

[4] Steve Pasternack, "Unsealing Campus Law Enforcement Records." Newspaper Research Journal, 13:4-14:1 (1993), 25.

[5] Paul McMasters, "Trashing the Press." College Media Review, 32:3 (1994), 16.

[6] Caroline Carlson, "Some Often Asked Questions on Secret Campus Courts," Access to Campus Courts: A Guide for Student Newspapers. Report presented at the Society of Professional Journalists National Conference, Nashville, Tenn., September 1994.

[7] Student Press Law Center Report, Spring 1994, p. 15.

[8] 484 U.S. 260, 1988.

[9] Student Press Law Center Report, Spring 1994, p. 3.

[10] Ivan Holmes, "New Problem: Censorship by Theft." College Media Advisers Report, December-January, 1988-89, p. 3.

[11] Paul McMasters, "Trashing the Press." College Media Review, 32:3, 15.

[12] Marlin Shipman, "College Newspaper Access to Campus Crime Reports: Perceptions of Police, Advisers and Editors" (paper presented at the convention of College Media Advisers, Denver, Colo, October 1991; and Shipman, "Perceptions of Campus Police: Newsgathering and Access to Public Records," Newspaper Research Journal, 15:2 (1994), 2-11.

[13] Tom Dickson, "Gaining Access to Security Records a Problem for College Newspapers," College Media Review, 30:2 (1991), 7-9.

[14] Michael W. Hirschorn, "University Effort to Censor Newspaper Are on the Increase, Student

Editors Say," The Chronicle of Higher Education, April 22, 1987, pp. 35-36.

[15] Kristie B. Northington, "National Survey Shows No 'Hazelwood' Effect." College Media Review, 29:4 (1990), 20-21.

[16] Dickson, op. cit.

[17] Jack Dvorak, Larry Lain, and Tom Dickson, Journalism Kids Do Better: What Research Tells Us About High School Journalism (Indianapolis, Ind.: ERIC/EDINFO Press, 1994).

[18] Shipman, op. cit.

THE NEW YORK TIMES **OP-ED** THURSDAY, MAY 9, 1996

Students Should Not Be Above the Law

By John Silber

BOSTON

In medieval Europe, there were two parallel court systems: the church's and the king's. The big difference between them was that the church courts did not resort to capital punishment.

In an age when all felonies were capital crimes, the church court was, from the defendants' point of view, considerably more attractive.

Although in theory these courts were limited to clergymen, in practice one proved clerical status by being able to read. And this skill was indulgently tested. One had to read a verse of one's own choosing from the Bible. Hence, the foresighted felon memorized his verse. It assured him of what was known as "benefit of clergy."

This system now seems quaint. But today colleges and universities increasingly tend to circumvent the courts and bury serious criminal cases in their own judicial systems.

John Silber is the president of Boston University.

For instance, a young man at Miami University in Oxford, Ohio, is being allowed to graduate this year even though he was put on "student conduct probation" after he was accused of sexually assaulting an 18-year-old freshman who was sleeping.

Colleges have a right to establish judicial codes to assure civility in the classroom, on the campus and in residences. But the administration of these codes should not give criminals sanctuary from the law.

Yet in many cases administrators successfully press students not to bring criminal behavior to the attention of the police and instead use campus disciplinary proceedings to judge charges of rape, arson and assault.

No campus court can impose a fine or imprison anyone for a single day. The most serious sanction is expulsion. The penalty for criminal assault is often not much worse than being tossed out of a club.

College judicial systems were originally intended to deal with infractions that were neither felonies nor misdemeanors, perhaps not even torts. And most disciplinary proceedings don't have the basics required for a fair trial: a professional and independent judiciary, enforceable rules of procedure, effective and fairly applied sanctions.

Judging crimes is a job for courts, not colleges.

But this is not the most serious problem. Once again, students are receiving special treatment. This treatment was the great scandal of the Vietnam War: The ability to gain entry to and finance college provided a "benefit of clergy" to middle-class young adults who avoided the draft.

Many administrators recoil from the idea that they should operate a collegiate criminal justice system. One can understand why. Outside of law school faculties, few academics have an interest in prosecution.

There is, of course, a simple way for administrators to avoid this entanglement. They can refer all criminal cases to the real criminal justice system. This is their obligation, not merely as administrators but as citizens. (Indeed, there is a name for a citizen who becomes aware of a crime and does not report it: an accessory after the fact.)

Students, predictably, don't like this idea. But in my 25 years as a college president, I have heard again and again that students wish to be treated as adults. But I have also heard their repeated demands that they be exempted from the laws of Boston, of Massachusetts and of the United States.

These two demands are contradictory. Legally, college students are adults. There is, of course, a difference between legal adulthood and substantive adulthood. Some people achieve substantive adulthood at 12; others never do. But except for the anomaly of the drinking age, everyone can claim legal adulthood at 18. And that includes the obligation to be held accountable for criminal behavior — not in juvenile courts or in the even more lenient courts of the academy but in the adult courts.

When colleges and universities usurp the role of the courts, they deny justice to victims. But they also do a terrible wrong to perpetrators, for they deny them entrance into the adult world of responsible action. And in this they fail utterly as educators. □

There's No Verdict Yet On Campus Crime

The New York Times
Education Life
Jan. 7, 1996

A 1990 law says schools must report incidents, but critics complain of loopholes and lax enforcement.

By ELIZABETHE HOLLAND

ONCE, WHEN PROSPECtive students and their parents visited the University of Delaware at Wilmington on Preview Days, they perused brochures and catalogues to learn about courses and costs.

Now, says Doug Tuttle, the university's director of public safety, they have the option of picking up information about the college's crime rate. And a security officer is present to answer their questions.

"It isn't the way it was five years ago, when parents just wanted to be assured," said Mr. Tuttle, who is also president of the International Association of Campus Law Enforcement Administrators. "They want to know if campus officers are 'real police,' if there is an escort service, emergency phones, what kind of security there is in residence halls."

In part because of a Federal law passed to raise public awareness about campus crime, questions like these are coming up at many campuses around this time of year, as prospective students and their families shop for colleges.

"I think it's certainly part of the decision process," said Mr. Tuttle, who has a college-age daughter himself. "They're questions I'd encourage parents to ask."

But critics of the 1990 law, which requires colleges to publish their crime statistics and create security policies, say that by now it should be providing more answers about safety on America's campuses.

It doesn't, they say, because of loopholes and lack of enforcement.

One complaint is that the law ignores off-campus crime against students. "When universities publish the crime statistics, students only receive half of the picture," said Ellen Wilkins, student president of Safe Campuses Now, a national group based at the University of Georgia at Athens.

Another is that the United States Department of Education seems to be an indifferent enforcer. The agency did not issue compliance regulations until 1994 and has already missed the act's 1995 deadline for a one-time report to Congress on campus crime nationwide. (It has yet to ask colleges to send in their information for the study.) Nor are colleges being monitored to see how many are living up to the act's requirements.

At some institutions, that means officials don't think "anyone is going to enforce the Federal law," said Katie Koestner, a former student at the College of William and Mary in Williamsburg, Va., who speaks at colleges about the importance of sex-offense prevention programs. So for a number of administrators, "it's a back-burner thing," said Ms. Koestner, who began lobbying for better college security after, she said, college authorities bungled a rape complaint she filed in 1990.

Some 3,200 public and private colleges and universities fall under the 1990 Federal Crime Awareness and Campus Security Act, which was passed after intensive lobbying by the parents of Jeanne Clery, a student at Lehigh University in Bethlehem, Pa., who was raped and murdered on campus in 1986.

The law requires all post-secondary schools receiving Federal funds to issue annual safety reports to prospective and current students and employees. The reports are supposed to describe college safety policies and give campus crime statistics on everything from murders, sex offenses and aggravated assaults to car thefts and liquor-law and drug-abuse violations.

Colleges also have to let students and employees know "in a timely manner" if they hear about a crime that could threaten others in the community. And under a victim's bill of rights provision added in 1992, they must promote awareness about date rape and other sex offenses and create policies for reporting these crimes.

If a college or university violates these rules, its Federal funds can be denied. So far, that hasn't happened. But does this mean that most colleges are in compliance with the law?

"I certainly don't see broad-based noncompliance," said David Longenecker, assistant secretary of higher education at the Department of Education. Some complaints reach the Department, he said, but there is "no evidence at this point that campuses aren't responding in the spirit of the law."

Mr. Longenecker, however, also makes it clear that enforcing the Campus Security Act is not a priority for his office. "We aren't going to essentially establish a major monitoring effort in this area," he said. "We have limited resources." (His emphasis, he said, is on serving taxpayers best — by battling fraud in student financial-aid programs.)

This leaves colleges pretty much on their own to comply with the security act. But even if most do, their students and employees may wind up with an incomplete picture of crime in their communities.

Ohio State University in Columbus — with 54,000 students, the nation's largest campus — may be typical of colleges grappling with some of the Campus Security Law's limitations.

When a student was murdered off campus in 1994, for example, the case was not listed in the college's crime report. "You've got to follow the guidelines, and the guidelines say where it happens is where you're going to report it," said Ron Michalec, the campus police chief.

Yet off-campus crime is a worry at many schools, says Ms. Wilkins of Safe Campuses Now. Her group found in a 1995 study that of 370 crimes against University of Georgia students, 165 occurred off campus.

Mr. Michalec at Ohio State also acknowledges that he does not keep statistics on crime at off-campus fraternity houses, even though the law requires it. (Crimes committed on university-related properties are an exception to the off-campus rule.) The fraternities border a high-crime area, he explains, and he has been unable to break out the relevant statistics from the data kept by city police. Mr. Tuttle of the International Campus Law Enforcement Association says a number of campus security officials have told him that they face this problem.

Continued on Page 45

Sex-offense statistics pose another problem for Ohio State. The Columbus campus listed seven forcible sex offenses in its 1994 official report, down from 10 the year before.

But Carin Quirke, who heads Women Against Rape in the city of Columbus, says her organization hears from an average of seven victims every month who say they are university students.

And Tina Thome, a graduate student who works for the university's own Rape Education and Prevention Program — an organization that is not a source of official campus crime statistics — says that her office regularly hears about rapes not reported to campus police.

Meanwhile, Mr. Michalec acknowledges that he doesn't include every rape and sexual assault occuring on campus when he compiles his official crime statistics. Some sex-offense victims don't want to file an initial report with him, he says. And if they "don't want a report, I don't report it," he said.

The problem of acquaintance rape, meanwhile, points up a paradoxical problem for schools.

"We know there's a lot of date rape that goes unreported," said Mr. Longenecker at the Department of Education.

Mr. Tuttle says that is a discrepancy that goes to the heart of the law. Some colleges and universities that are following the Campus Security Act by raising awareness about acquaintance rape, he says, could wind up with higher numbers of sex offenses. And while image-conscious schools might not welcome what their openness could bring, he said, "I think it's positive." ■

Elizabethe Holland is a reporter and editor at the St. Louis Post-Dispatch.

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Police Officer Alleges University Crime Cover-up

By Ann Holinka and Josh Smith

February 14, 1996

STAFF WRITERS

Inconsistiences between publicized accounts of campus crime and the personal testimony of a Brown police officer reveal several recent incidents of violent crime that have not been disclosed to the Brown Community.

"There are a lot of robberies, armed robberies, that are never publicized," Officer David Boucher told The Herald this week.

The apparent suppression of information relating to crimes on campus may have affected public perceptions of safety -- a crucial element in the debate over arming Brown Police, said Boucher.

Every Tuesday, a Herald reporter meets with Coordinator of Special Services Drew Kim '92.5, who is reponsible for relaying official Brown Police briefs to the public.

"In 1990, we simply provided a list of incidents to the Herald," Kim said. "The current format [of meeting with a Herald reporter personally] was implemented to demystify the whole process.

"We try to make sure that this information gets out to all parts of the Brown community. Because of issues of confidentiality, we don't give out reports with people's names in them. There's a value in letting the community know about these things, but knowing the victims' names has no bearing on that."

According to Officer Boucher, the names of victims are not the only pieces of information held from the public. Boucher believes that many of the crimes he has dealt with on the job have never made it into Kim's police briefs.

"Drew Kim is not informing [the reporters] of this stuff. Drew Kim is not letting them know what's going on out here," said Boucher.

Double Faced Crime

Last semester, while the University was still deliberating over the issue of arming Brown Police, Brown officers assisted Providence Police in response to an assault and robbery that occurred on Hidden Street on September 18, 1995.

According to Boucher, a Brown University student was walking down Hidden Street at about midnight September 17. As he reached Prospect Street, he was jumped by two males and knocked to the ground. The suspects kicked him twice in the head, stole his walkman and pocket knife, and then fled. Minutes later, two men fitting the description of the assailants committed an armed robbery outside of Young Orchard using a knife.

In the official police brief issued by Drew Kim, a section entitled "Summary of Major Incidents: September 14, 1995 to September 21, 1995," the significant crimes for the week were "six larcenies (one vehicular), one malicious mischief (vehicular), two motor vehicle thefts, and five harrassing phone calls." This report did not mention the September 18 assault and robbery, and no incidents from that day appear in the report.

The following week, on September 23, 1995, students leaving an Alumnae Hall dance began fighting on Howard Terrace on the corner of Brown and Olive Streets, according to Boucher. A bystander at the scene of the fight witnessed a male waving a gun at the crowd. The crowd scattered, including the witness, who then called for Brown Police. Because a gun was involved, Brown Police called Providence Police to the scene. By the time Providence Police had been dispatched, the suspects had cleared the area.

"Someone could have been shot and killed and there wasn't anything we could do about it," said Boucher.

"We can't investigate because we don't have the tools to do so because we are not armed."

That same week on September 24, 1995, a Brown student was walking down Thayer Street when two males assaulted him from behind near Fones Alley. The student was cut above the eye when one of the suspects punched him in the face. While the student was walking home, he flagged down a Brown Police car and reported the incident.

"I think the community should be aware that these kinds of incidents happen. People are subject to violence by just walking down the street minding their own business and that's exactly what this guy was doing," said Boucher, referring to the victim of the Fones Alley assault.

On September 23 and 24, the dates of the above-mentioned fight and assault, the official police brief listed only a bicycle theft from Chapin House, a bicycle theft outside the Graduate Center, and a break-in at Olney House, and no violent incidents for the remainder of the week.

"Nothing To Hide"

Vice-President of Administration Walter Holmes discussed the importance of informing the public of crimes on campus.

"A better police briefing program is part of a safer program and I'm all for that," Holmes said. "We don't hide any cases. All crime that occurs during the week is brought to reporters. All cases I see are brought to the Brown Daily Herald."

In 1992 -- the last time Brown considered arming its officers -- the Ad-hoc Committee on Safety created the coordinator of special service position which Kim now holds. When the University decided not to give the police guns that year, the ad-hoc committee designed this position to better inform the Brown community of issues of public safety.

Holmes went on to discuss the official policy concerning the release of information regarding crimes committed on campus.

"When [Brown Police] are involved, we do police briefs," he said. "When we're not involved, we don't do police briefs."

According to Holmes, Brown Police write reports even if Brown officers simply assist Providence Police in responding to an incident.

Much of the ambiguity surrounding what information is disclosed in Kim's reports concerns matters of Brown Police jurisdiction, said Brown University Security Patrolpersons Association spokesperson Officer John Kelly.

"We're in a dual society -- some stuff is Providence, some is ours. There's a lot of overlapping. The main thing with the Spats incident is that it involved Providence Police," he said, referring to a fight last September that was not revealed to The Herald until several weeks after it occurred.

"It didn't involve Brown Police," he said "It involved Providence Police. We never responded--that's why it never came out to the University."

Kelly went on to defend Police and Security's policy towards disclosing information to the public.

"We're not trying to keep back anything," said Kelly. "For any reason, if it's not coming through to the public, I don't know why."

For the week of January 15-22, 1996, the official Brown police brief outlined a "Summary of Major Incidents" which included "eleven larcenies (one vehicular), two cases of malicious mischief (vehicular), and one motor vehicle theft." Under the date of January 20, the brief listed a larceny at Andrew Hall involving theft of a CD player and lap top computer and vandalism in a University parking lot. Under the headings "Suspicious Persons" and "Other," the report said, "None."

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Officer Boucher told The Herald that early in the morning on January 20, 1996, a Brown student was walking down Thayer Street when a small vehicle pulled up to him. The driver and the passenger got out of the car, shouted at the student, and proceeded to assault him. The student reported the incident to Brown Police minutes after it occurred.

Chief Dennis Boucher agreed with Officer Kelly's statements concerning the possible reasons why the Brown community is not informed about all incidents on campus.

"Sometimes Providence responds and Providence doesn't call us. Sometimes they will -- sometimes they won't. Sometimes we don't find out about an incident until after the fact," said Chief Boucher.

"You're dealing with information channels and some things don't always get through everybody," said Kim. "If we find out, we report it. All information is released."

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King of Prussia, Pa. 19406-3207

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fax: (610) 768-0646

CompuServe E-Mail: 75030,1436

To be forewarned is to be forearmed !

Volume I, No. 2

Campus Watch

Fall-Winter 1995

Dedication:

Frank G. Carrington, Esq.
1936 - 1992

This issue of Campus Watch is fondly dedicated to the late Frank Carrington who is appropriately recognized as the father of victims' rights. In 1991, Frank was honored by President Bush during National Victims' Rights Week ceremonies held in the Rose Garden. After the murder of Jeanne Clery, he helped establish Security On Campus, Inc. and provided his services "gratis" to hundreds of campus crime victims. We were so fortunate to have him as a friend and counselor. He was our "gentle giant" whose memory lives on in our work to make U.S. college campuses safer and to help victims of campus crimes.

Welcome:

Jeffrey A. Newman, Esq. - Mr. Newman is an attorney in Boston who's firm specializes in representing violent crime-victims, and has won several celebrated verdicts and settlements for student-victims. S.O.C. is honored to have Mr. Newman as a new member of our Board of Directors. (Article p8)

Arlene B. Seal, Ph.D. - Dr. Seal is president and founder of CWD International, Inc. a non-profit organization specializing in developing healthy communities. Dr. Seal's credentials are extensive and S.O.C. is looking forward to her additional articles and insights to creating safe college communities. (Article p.6)

S. Daniel Carter - Dan Carter is a co-founder of Safe Campuses Now which operated primarily out of Atlanta & Knoxville. Dan has been appointed to Regional Vice President of S.O.C.; he is currently working on federal legislation requiring Open Campus Police Logs at all federally funded colleges and universities. S.O.C. is honored to have Dan Carter as its highly talented Regional V.P. (Article p.4)

Campus Spotlight

☞ Harvard University

A premed student, Sinedu Tadess, brutally stabbed her roommate, Trang Ho, 45 times while she was sleeping in their Dunster House room on May 28. Tadess then hung herself to death in the bathroom. The gruesome murder-suicide was the twisted culmination of months of bickering between the two junior roommates because Trang had plans to board with another roommate for her senior year. Coupled with three other suicides since April 1994, the string of student deaths has shocked the Harvard community.

(Source: Chronicle of Higher Education, 6/9/95, Phila. Inquirer 5/30/95, Boston Globe 5/30/95, NYT 5/30/95)

☞ Tufts University

Staff members of the conservative student newspaper, *The Primary Source*, posted more than 100 flyers protesting the admission of Gina Grant. Harvard, Columbia and Barnard withdrew their offers when they learned that Grant failed to disclose that she pleaded no contest to manslaughter charges for killing her mother (9/13/90) in their South Carolina home. Grant was 14 years old when she bludgeoned her mother 13 times in the head with a lead crystal candlestick, then conspired with her 15 year old boyfriend to make the murder look like a suicide - the boyfriend stuck a knife in the side of the corpse's neck to create the appearance of a suicide. Grant's defense lawyers depicted an abusive, alcoholic mother who had provoked the homicide. The manslaughter conviction earned Grant six months of incarceration at a juvenile facility and probation until her 18th birthday. In an attempt to quell student protest, Tufts University issued a statement that said the university is "caring and forgiving", and president John A. DiBiaggio said he will take "ultimate responsibility". The flyers distributed by *The Primary Source* assert that Tufts administrators have directly jeopardized student safety.

(Source: Chronicle of Higher Education, 6/9/95, Lehigh Univ. Brown & White 4/25/95)

☞ Boston University

Sophomore students Truong Van Huynh and Quoc Hoang Nguyen were arrested by state police after allegedly selling 10 bags of heroin to undercover state police officers. BU's dean for student development said the two have been summarily suspended pending adjudication of their court cases. Also in January, state police arrested three students at BU on drug charges following sweeps of a room in a residence hall and two apartments. Police said they found a total of $21,200 in cash, 114 grams of cocaine, and 5 pounds of marijuana. The BU Police Dept has continually warned students that drug laws will be enforced, especially during freshman orientations.

(Source: Campus Security Report 6/95, p.3)

Continued On Page 2

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Campus Watch

Campus Spotlight

(continued from pg. 1)

☞ **Brown University (update)**

Ex-Brown assistant track coach, William (Skip) Miller, was sentenced by the Providence Superior Court to 15 years in prison for raping a female athlete. Miller was charged for raping a freshman athlete in her dorm - at knife point - between February 15 and March 15, 1990.

(Source: Boston [illegible] 6/14/95, p. 31)

☞ **Lehigh University**

Two local girls were found murdered at the Lookout Point section of the campus, on 6/29/95. Bethlehem residents Jennifer Grider (17) and Mary Orlando (15) were found shot to death shortly after 10 pm; they apparently went to enjoy a take-out dinner after borrowing Mrs. Grider's car. Police have reported that both girls were shot with 9 mm bullets.

(Source: Lehigh Brown & White 9/8/95; Allentown Morning Call)

☞ **Indiana University**

Visiting professor in the philosophy dept., Kenneth Howell, was shot through the neck by an unknown gunman on the campus, during the first week of June. Miraculously, Mr. Howell pursued/chased the assailant around the building before leaving the scene, according to police who are investigating.

(Source: Chronicle of Higher Education 6/16/95)

☞ **University of Arizona**

A former student, John Culver Mead, walked into a computer laboratory in June and fired five shots at the three people in the lab, then left. The 50-year old assailant said he had considered suicide earlier in the day but had decided instead to try to kill someone else, according to police. He pleaded not guilty to charges of aggravated assault.

Source: Chronicle of higher Education 6/30/95)

☞ **Millersville University**

Junior year student, Scott C. Sundy, was expelled from the university, after his arrest by campus police for cruelty to animals, institutional vandalism, disorderly conduct, and public drunkenness. Sundy allegedly swam 50 feet to an on-campus island where a white mute swan lived, then beheaded the 3 ft. bird, named Miller, with a butcher knife.

(Source: Chronicle of Higher Education [illegible])

☞ **Whatcom Community College, Wa.**

Student Krystal D. Way was shot to death in a campus parking lot in June. Two witnesses have identified her husband, Mark Way, as the assailant who shot her several times with a 9 mm semi-automatic handgun before fleeing. Mr. Way was arrested and being held for arraignment.

(Source: Chronicle of Higher Education 7/7/95)

☞ **Penn State**

Penn State police have refiled kidnapping and additional charges against a student accused of stabbing two other students and holding them hostage in a residence hall room.

(Source: Campus Security Report 5/95)

☞ **Univ. of Minnesota - Medical School**

A former laboratory assistant killed himself one day after wounding a professor at Northwestern University. According to reports, the lab assistant shot himself in the head when confronted by police. He had allegedly been fired because of a negative evaluation by the professor.

(Source: Campus Security Report 5/95)

☞ **University of Alaska - Fairbanks**

A 22-year-old student was arrested after he tried to run over a Fairbanks police officer with his pick-up truck. The off-duty officer responded to a call about an intoxicated man driving in the student apartment complex parking lot.

(Source: Campus Security Report 5/95)

☞ **Albany State College (Ga.)**

A college police officer, Sergeant Cheyenn Fields, has been charged and indicted by a grand jury on one count of sodomy. Mr. Fields had allegedly assaulted the woman at an off-campus location, and was fired by the university after the indictment.

(Source: Chronicle of Higher Education 7/7/95)

☞ **Rutgers University**

A bomb exploded inside the Mabel Smith Douglass Library in early April, causing minor ceiling damage and evacuation of the library. On April 7, a library employee found a suspicious device in the book-stacks and called police. Rutgers and the FBI are offering a joint $10,000 reward for information leading to arrests in the case.

(Source: Campus Crime 5/95, p. 59)

☞ **University of Minnesota**

Campus Security has bolstered its efforts to stop gay men from having sex in the campus mens rooms. Opponents of the action are suspected of setting two fires on campus in May, have called campus police officers obscene names, and urged gay men to vandalize other areas of the campus in order to distract the police from patrolling the rest rooms. University officials in the Gay, Lesbian, Bisexual, Transgender Programs Office say they want to make the restrooms more accessible to everyone as well as to protect the safety of the men who frequent restrooms for sexual activity.

(Source: Chronicle of Higher Education 6/23/95)

☞ **Dartmouth College**

An American-Indian senior was being held for psychiatric evaluation in April after allegedly threatening to lynch a black alumni official and rape his wife.

(Source: The News 4/30/95)

☞ **SUNY - Stony Brook**

Dental student, Jason Kuo, was charged with aggravated harassment after being arrested in connection to hundreds of anti-Asian, anti-Black, and anti-Semitic letters sent to professors and students over the last four years.

(Source: Chronicle of Higher Education 6/30/95)

Safety Kudos

☞ **Loyola University - New Orleans**

Loyola was testing the effectiveness of a personal electronic security system last spring, developed by Secure Systems, Inc. Students were given a small transmitter which they can quickly activate in an emergency situation. The transmitter alerts the campus public-safety office which computes the student's location, identity, photograph and other critical information such as medical conditions. The Universities of Bridgeport, Scranton, Oklahoma and Massachusetts - Wooster, already use the system.

(Source: Chronicle of Higher Education 6/95, p. 35)

Campus Watch

Off-Campus Report

☞ FSU/FAMU Crime Wave

Freshman Julio Memedez Jr. lay in a comma after being shot in his Penascola Street apartment, late in April 1995. According to reports, two men entered the apartment and shot Julio in the back of the head at point-blank range, before opening fire on his roommate who ducked into a closet to avoid the spray of bullets.

»A Florida A&M student has charged 10 fellow FAMU students for gang-raping her in an off-campus duplex just west of Bragg Stadium. Six students were arrested. (April '95)

»FAMU student Roderick Ward was arrested by Tallahassee police for the stabbing death of his longtime friend and fellow FAMU student, Tamika Stewart. Both students were 19-years of age. Ward is being held without bail for 1st degree murder. (April '95)

»Five FAMU football players have been arrested by Tallahassee police for a string of car burglaries and auto thefts throughout Tallahassee. (April '95)

»An FSU student who was arrested and jailed on theft charges has alarmed campus police after they found an MAK-90 semi-automatic rifle in his dormitory room.

(Source: Tallahassee Democrat 5/1/95)

☞ Temple University

A junior year student, Brain Aidenbaum, died from trauma to the back of his head after he attempted to withdraw cash from an ATM machine close to campus (4/28/95). A witness said five young black men, ages 16-18, attacked Brain from behind, stole his wallet and Sony Walkman, then fled.

(Source: Philadelphia Inquirer 5/1/95, p. B1)

☞ Ohio State University

A Kansas State University baseball player, Brad Harker, was severely beaten and hospitalized last summer. Harker and his teammates were renting the off-campus housing at Ohio State from an engineering fraternity during the summer. A teammate found Mr. Harker in bed with severe head injuries which required doctors to induce a coma for a few days to reduce swelling. Police were looking for the assailants.

(Source: Chronicle of Higher Education, 8/4/95)

* * *

Fraternity Row

☞ University of Wisconsin

Police officers cited 134 teenagers for underage drinking and disorderly conduct at the Sigma Pi fraternity in April. The fraternity was also cited with serving alcohol to minors, according to Oshkosh police. In response to the raid, police reported that approximately 1,000 students went on a rampage downtown - looting a bicycle shop, pulling down several traffic lights, and breaking more than 20 storefront windows. Sixteen people were arrested for destroying an estimated $50,000 in property.

(Source: Chronicle of Higher Education, 5/12/95)

☞ Dennison University

Approximately 500 fraternity members broke windows, tore-up walls, made bonfires out of furniture, and threw beer bottles at police cars and fire trucks in April. The mayhem began after an announcement by the Board of Trustees that virtually all students will have to live and eat in university halls next fall. The Board cited declining membership and related financial problems, inadequately maintained housing, as well as hazing and underage drinking problems.

(Source: Chronicle of Higher Education, 5/5/95)

☞ Bloomsburg University

The Chi Sigma Rho sorority was suspended and being investigated for possible hazing violations after a pledge sister was hospitalized for alcohol poisoning. The unidentified student had "chugged" approximately a half bottle of vodka through a funnel type device known as a "beer bong".

(Source: Philadelphia Inquirer 3/30/95)

☞ University of Iowa

Freshman Matthew P. Garofalo was discovered dead in his fraternity house this September. Matthew was a pledge to the Lambda Chi Alpha fraternity who died from inhaling his own vomit after passing out from a night of pledging/drinking activities - his BAL registered .188 according to the medical examiner's office.

(Source: Chronicle of Higher Education 9/29/95)

☞ University of Rhode Island

Six members of the Phi Kappa Psi fraternity have been expelled for a hazing incident which involved a sleep-deprived pledge doing calisthenics until he suffered convulsions that required hospitalization. Phi Kappa Psi had been kicked-off campus for two years (1988-'90) after its members forced 12 potential pledges to guzzle beer through funnels, sit naked on blocks of ice, and other degrading tasks.

(Source: Campus Security Report 5/95)

☞ University of Texas - Austin

The Texas Cowboys have been banned from the university until the year 2000 due to hazing activities which killed Gabriel B. Higgins. Last fall, sophomore Higgins was drinking heavily at an initiation picnic for Texas Cowboys pledges before he drowned in the Colorado River.

(Source: Chronicle of Higher Education, 6/23/95)

☞ University of Colorado - Boulder

Fraternities changed a tradition of heavy partying in September by banning alcohol at all social events in the houses. Members are allowed to drink in their rooms, but beer will no longer be served at social events in the houses. Boulder police had issued approximately 500 citations on-campus and in-town over the summer. President of Phi Kappa Tau, Joe Love, said his group was cited for serving alcohol to 75 minors and that concern over liability influenced the fraternities to adopt the ban.

(Source: Chronicle of Higher Education, 9/29/95)

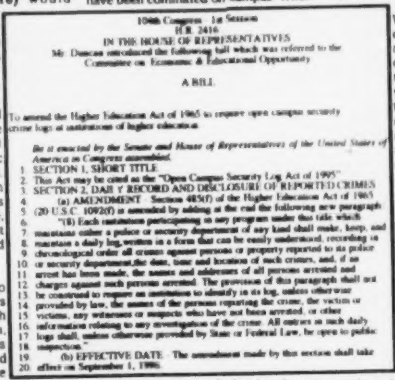
* * *

Campus Watch

Open Campus Police Logs Bill Introduced In Congress

-by S. Daniel Carter

A bill which would assure that all colleges and universities receiving federal funding make available to their students timely information on all crimes reported to on campus police or security departments was introduced in Congress by Representative John J. Duncan, Jr. of Tennessee on September 28. The **"Open Campus Security Log Act of 1995"(H.R. 2416)** would amend the campus security provisions of the Higher Education Act of 1965 to provide that institutions with police or security departments will keep a daily log "recording in chronological order all crimes... reported to" the department and which shall "be open to public inspection" on a daily basis. Similar laws are already in effect in seven states (Massachusetts, Tennessee, Oklahoma, California, West Virginia, Minnesota and Pennsylvania).



104th Congress - 1st Session
H.R. 2416
IN THE HOUSE OF REPRESENTATIVES
Mr. Duncan introduced the following bill which was referred to the Committee on Economic & Educational Opportunity

A BILL

To amend the Higher Education Act of 1965 to require open campus security crime logs at institutions of higher education.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the "Open Campus Security Log Act of 1995"

SECTION 2. DAILY RECORD AND DISCLOSURE OF REPORTED CRIMES

(a) AMENDMENT - Section 485(f) of the Higher Education Act of 1965 (20 U.S.C. 1092(f)) is amended by adding at the end the following new paragraph:

"(8) Each institution participating in any program under this title which maintains either a police or security department of any kind shall make, keep, and maintain a daily log, written in a form that can be easily understood, recording in chronological order all crimes against persons or property reported to its police or security department, the date, time and location of such crimes, and, if an arrest has been made, the names and addresses of all persons arrested and charges against such persons arrested. The provisions of this paragraph shall not be construed to require an institution to identify in its log, unless otherwise provided by law, the names of the persons reporting the crime, the victim or victims, any witnesses or suspects who have not been arrested, or other information relating to any investigation of the crime. All entries in such daily logs shall, unless otherwise provided by State or Federal Law, be open to public inspection."

(b) EFFECTIVE DATE - The amendment made by this section shall take effect on September 1, 1996.

Despite years of efforts to gain access to campus crime information through litigation and legislation, experts claim that schools continue to withhold relevant and timely crime report information from their students. Mark Goodman, the Executive Director of the Student Press Law Center in Arlington, Virginia, said that "our work with college newspapers indicates that many schools routinely cover-up crime information to protect the school's image." Pennsylvania state Senator Richard A. Tilghman, the sponsor of a recently enacted open campus police logs law at the state level, said that the "problem has been that some schools have been providing only sketchy information in an untimely fashion, essentially making it useless to students and parents."

"This is big big business and unfortunately the universities consider their pocket books are more important than the lives" of their students said Connie Clery, co-founder of Security On Campus Inc., during a recent **American Journal** television interview. "No matter how perfect a campus security system is, it will not be effective unless informed students take precautions to protect themselves."

"Students deserve to know the dangers they face, and the details of crimes that have been committed on campus. When students are aware of what is going on around them, they can take the necessary precautions to protect themselves from criminals who may be lurking in the shadows of campus buildings or parking lots," said California state Assemblyman Pat Nolan who sponsored state legislation on this issue which was signed into law in 1992.

Nationally as the law reads now, only crimes which are required to be reported annually under the Federal "Student Right-To-Know and Campus Security Act" (passed in 1990) and which are determined at the sole discretion of the institution's administration to be a "threat to... students and employees" are required to be reported in a "timely" fashion. "A law that would require schools to maintain crime logs and open those logs to the press and the public could help make colleges much safer places" according to Goodman. This would also allow independent confirmation of the accuracy of the annual statistics and for greater awareness of patterns of crimes like larceny which do not have to be reported annually.

When a campus law enforcement agency makes an arrest for alleged criminal activity but there is no criminal prosecution, or when the suspect is diverted to an internal institutional disciplinary process there may be no actual record made public of the alleged offense. Jason Anders, a student journalist with **The DePauw** newspaper in Indiana said that "we are learning that many times, our police force 'arrests' someone only to have them whisked away to the closed private campus judicial board. We have been told by some sources that often deals are made with people (particularly in cases of rape). (They) agree to leave school, and it never gets made public." DePauw is a private university with "a police force with full powers of arrest."

The University of Richmond, a private institution with a police force, when faced with a lawsuit seeking access to their crime reports issued the following statement: "We do not believe it is consistent with the University's relationship with its students to be a direct source for the release of the names of arrested students to the public." The suit brought by the editor of the student newspaper was dropped in 1993 due to the lack of resources to continue with an appeal.

As with several of the precedent state laws, this Federal legislation specifies what crime report information must by included and what information does not have to be included. The Pennsylvania law prohibits inclusion of names and addresses of anybody not arrested and charged with a crime. Some institutions, especially larger public institutions maintaining a certified police department, already make report log information available.

This bill has been referred to the House Committee on Economic and Educational Opportunities. Security On Campus, Inc. will continue to closely monitor the progress of this legislation.

Supplemental Sources: Student Press Law Center Report-Spring 1993, Winter 1994-95

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Legislative News

☞ Federal - Open Campus Police Logs

Known as the "Open Campus Security Log Act of 1995", the legislation is designed to improve campus safety by providing real-time information about campus crime to the student body and to the extended campus community. A summary addressing legislation follows:

1. Students must be alerted to current campus crime incidents so that they can take appropriate precautionary actions. Currently, most students rely on hearsay and rumor when someone is raped in their dormitory, or a rash of thefts have occurred. College and University campuses should not be sovereigns that withhold vital safety information from the campus community. Imagine the 1st Amendment scandal that would be created if your home-town police station refused to open its arrests logs to the public. Campus residents have a Right-To-Know when their safety is in jeopardy.

2. Open Campus Security Logs will provide a critical check on the veracity of crime statistics submitted to the Department of Education as required by the Campus Security Act of 1990; student-editors and campus law clubs will become empowered to track campus crime reporting and verify the annual crime statistics submitted by their institutions. Otherwise, the Campus Security Act of 1990 does not have an effective system of verification and enforcement - administrators have successfully delayed the campus crime report to Congress for another year.

3. No Additional Admin. Costs: the information exists but it has typically been restricted as "confidential" by college and university administrators.

4. Precedence: Seven (7) state legislatures have wisely enacted Open Campus Security Logs to improve campus safety and to safeguard the rights of the campus community.

This is non-partisan, common sense legislation that will save lives and spare trauma at our nation's colleges and universities. **We hope that you will write your legislators in support of H.R. 2416.**

(Source: Security On Campus Inc. files)

☞ Illinois - Hazing Act

The Illinois State Senate unanimously passed a bill amending the Hazing Act in May, repealing the existing law, after the mother of Nicholas Haben pursued the legislation. In 1991, twelve members of the Western lacrosse club were charged with hazing and unlawful delivery of alcohol to a minor after Nicholas Haben's death (10/19/90) at Western Illinois University was determined to be alcohol-related. He allegedly had been drinking large amounts of various types of alcohol as part of the initiation to the club.

The new House Bill 113 reads: " a person commits hazing who knowingly requires the performance of an act by a student or other person in an educational institution for induction or admission into a group associated or connected with that institution and the act is not sanctioned or authorized by that educational institution and results in bodily harm to any person. Penalty is a Class A misdemeanor. If hazing results in death or great bodily harm, it is a Class 4 felony."

The 1901 Hazing Act had defined hazing as "a pastime or amusement engaged in by students or other people in schools, etc., for the purpose of holding up an individual to ridicule for the pastime of others."

(Source: Kendall County Record 5/25/95 p. 7)

☞ Pennsylvania - Assault Statute

Governor Tom Ridge (R) signed into law a bill strengthening state rape laws after a controversial case involving a college student.

The State Senate approved the "no-means-no" bill earlier this spring after the State Supreme Court in 1994 said a victim must prove force or the threat of force to win a rape conviction.

The bill reads that a victim's simple "no" answer to sex is enough to get a felony conviction for sexual assault - ranking as a second-degree felony with a 10-year prison sentence. The bill maintains rape as a first-degree felony.

(Source: Campus Crime 5/95 p. 39)

* * *

UPDATE

The U.S. Dept. of Education will not make its Sept. 1995 deadline to provide Congress with its report on campus crime data in compliance with the Student Right-To-Know Act of 1990. This law requires the colleges to collect crime data and distribute it to the students and employees on their campuses---and to parents and prospective students upon their request. The 1995 Report to Congress was to provide the first comprehensive collection of information nationwide since the law's enactment. Charles Masten (senior economist for the Office of Postsecondary Education) of the U.S. Dept. of Education, Gregory Henschel (policy analyst for the Nat'l. Inst. on Postsecondary Ed., Libraries & Lifelong Learning), and Bernie Greene (project officer for the Nat'l. Center for Education Statistics) are preparing the Report which is due in the fall of 1996.

Campus Watch

The Freedom & Courage To Lead

-by Arlene B. Seal, Ph.D

When I was invited to write this article, I thought for a while about what I would characterize as the most important issues for college campuses today.

Having spent part of my career as an academic dean at a large university and, in recent years, heading a non-profit organization involved with drug and violence prevention, my thoughts naturally focused on education and safe, healthy environments.

I was reminded about some remarks made recently by Secretary of Education, Richard W. Riley, at a conference for law enforcement administrators in which he said:

> *"Education is at the center of our nation's future and at the center of each of our future well-being. ...the cornerstone of education reform is a safe and secure campus. You cannot have excellence in teaching and learning, you cannot have the kind of environment where quality education flourishes, if you don't have personal and community safety and security."*

What, then, does this mean for the campus? If you agree with Riley, then we must create a common vision of a safe, healthy campus that includes unity among campus factions based on respect, leadership from within the campus population, and responsibility derived from the freedom to impact one's environment. But, first and foremost, we need to examine current attitudes and perceptions that have evolved in our society at alarming rates over the past two decades. Key among these are misconceptions about the meanings of ***freedom, individual rights and the common good.***

A recent conversation with a young lawyer friend serves well to shed some light on prevalent attitudes about these concepts. I was advocating that people need to take a clear position demonstrating non-acceptance about drugs if we are really to change attitudes to achieve a drug free society.

Part of the problem, as I see it, is a lack of connectedness to others (ie. "doesn't affect me...not my responsibility") and how people perceive "individual rights."

From its earliest beginnings, one of the primary purposes of education as a basic social institution was to pass on the mores and culture of the society from one generation to the next. Developing a student's character as well as the intellect was seen as necessary to "taking one's place in society." In the United States, education was recognized as an essential component for a knowledgeable voting populace. Teaching students how to become good and decent people as well as broadly literate was the natural process of creating productive and responsible citizenry.

"I have friends who do drugs," he commented, "and as long as they don't do them around me, it's their business. I can't tell them what they can and can't do. They have a right to do whatever they want. That's the beauty of this country and the freedom we have as Americans."

"Whatever they want?" I asked incredulously. "What about murder... child pornography...?"

"Of course not!" he retorted. "That's different."

With a tilt of my head, I asked, "Why is it different? Drugs, murder, child porn... they are all against the law."

"Because you can't do something that hurts somebody else," he justified.

"But drugs do hurt others," I argued. "People using drugs are not in control of their behavior and can cause harm to others. Up to 80% of crime in the U.S. today is alcohol and other drug-related [Dept. of Justice, 1992] which includes child and spouse abuse, home violence, arson, theft, homicide, etc. And on college campuses, 90-95% of the crime is alcohol and other drug-related [Columbia University - CASA Study]. In addition, most drugs cause birth defects and marijuana also causes chromosome changes that can affect generations! The biggest problem is that the majority of people don't know this information."

"But," my lawyer friend said, "if people want to use drugs - they are going to, it's like driving over the speed limit. People in this country believe they have the right to live freely."

"But the ***right to live freely*** doesn't include breaking the law!" I countered, feeling frustration at the elusiveness of logic. "In fact, why do we have laws at all?" I asked more rhetorically than seeking a response. "If no one obeys the laws, then we have anarchy and no one is safe -- which seems to be about where we are getting to today."

"I think people in general have come to a distorted idea, particularly over the past 25 years, about the right to live freely," I continued. ***The framers of the Constitution meant 'free from the tyranny of government' not free to do anything one wants.*** Laws protect us individually and as a society. In our form of government, ***'We the People' not I the individual*** make the laws and it is up to us to obey them or go through the process we are fortunate to have in order to change them."

"True," said my companion. "We can make the laws but we can't legislate compliance. We can take punitive measures but **real compliance comes from within the people.**"

In other words, compliance comes from respect for oneself and others and the freedom to be a willing part of the system (society) that provides everyone with the security and safety to pursue their lives....***by the people ...for the people.*** On college campuses, real compliance and real change in attitude must come from within all levels of the institution, requiring leadership on the part of individuals and as an institution.

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Campus Watch

The courage to demonstrate discernment about that which affects the well-being of the society in which we live is exercising one's leadership, freedom and responsibility. Showing discernment to assess a situation and not accept that which is unsafe or harmful, is necessary for everyone's well-being. In a free society, it is unconscionable to turn one's back. When someone screams rape, closing the window is not acceptable. Removing the penalty for a crime and changing the legal code but not the illegal action is not acceptable. We have the freedom and responsibility to act in our society which was established for the common good of the people.

Universities have the opportunity to set the tone that models the essence of American society as it was conceived. Essential to this is clearly communicating in policy, rhetoric and action, the basic principle that the common good transcends individual interests. As a principle by which we want future leaders to be guided, universities can engender such principles in its leadership on campus issues. For instance, on the issue of campus crime, a university is able to exhibit its high priority for the safety and security of the campus community by involving all segments in prevention strategies and informing them accurately about the status of crimes.

If we want future citizens to understand their roles in society and show integrity on Wall Street and in Congress, then universities must educate them. From its earliest beginnings, one of the primary purposes of education as a basic social institution was to pass on the mores and culture of the society from one generation to the next. Developing a student's character as well as the intellect was seen as necessary to "taking one's place in society." In the United States, education was recognized as an essential component for a knowledgeable voting populace. Teaching students how to become good and decent people as well as broadly literate was the natural process of creating productive and responsible citizenry. Universities do not exist in a vacuum ...they cannot produce excellence in education or research nor can they produce excellence in future citizens if they do not generate an environment resonant with mental, social and physical health and safety.

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Arlene B. Seal is president and founder of CWD International, Inc., a non-profit corporation specialising in developing healthy communities. Dr. Seal's Model of Positive Prevention is helping to frame national strategies and public policy regarding drugs and violence in the United States and abroad. As an internationally recognized speaker, writer, trainer and consultant, her expertise has been called upon by the White House, US Departments of State, Health, Education, foreign governments, and organizations around the world.

Dr. Seal is a member of the International Drug Strategy Institute and as a 1993-94 Fulbright Senior Scholar, worked with the government of Panama on national drug prevention strategies. Formerly a university academic dean, she holds degrees in psychology, counseling, and education and is listed in Who's Who of American Women.

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Surveys & Trends

☞ Dubious College Ranking Data

A Wall Street Journal article exposed several schools for submitting "cooked" data to U.S. News & World Report, Money magazine and other periodicals that rank higher education institutions, as well as to debt-rating agencies. The following are excerpts from an article published by the Oregonian.

»"NYU, in responding to the U.S. news survey, excluded the SAT scores of about 100 poor students in a special state-sponsored program.

»New College of the University of South Florida (Sarasota),reported the average SAT score of its freshman class as 1296. But that score was obtained by cutting off the bottom-scoring 6% of students, raising the average 40 points. Admissions director David Anderson told the newspaper that the practice, since stopped, was part of the school's marketing strategy.

»Northeastern University (Boston) excluded SAT scores of international and remedial students, even though surveys specifically said no to do so. Northeastern's provost, Michael Baer, said the practice gave potential students a more accurate reflection of what their peer group would be.

»Long Island University told U.S. News that its graduation rate was 55%, but it told the National Collegiate Athletic Association the rate was 28%. A spokesman for the school said that the discrepancy was an example of "one office not communicating with another office."

»Harvard University, which often ranks near the top of surveys, had a slight discrepancy between the SAT score it reported to U.S. News and to Moody's Investors Service, Inc. Director of Admissions, Marilyn McGrath, commented that "its more a reflection on how Harvard counts than anything sinister that could be read into it."

Robert Morse, director of research for the U.S. News guide, said "some of these schools have admitted to purposely lying on our survey...the same colleges would reject a student who lied on an application."
(Source Oregonian Assoc. Press 4/18/95)

☞ Fed. Doubles Rape Estimate

The government's yearly estimate of rapes and attempted rapes has more than doubled to 310,000 - not because of an increase in attacks but because there's finally a direct question about rape on the government's biggest crime survey.

The Justice Department's Bureau of Justice Statistics estimated that there were 500,000 sexual assaults on women, including 170,000 rapes and 140,000 attempted rapes, annually in 1992 and 1993.
(Source: Associated Press 8/17/95)

(Continued On Pg 11)

Campus Watch

Conflict of Interest:

University Employees Advising Student Crime Victims

-by Jeffrey A. Newman, Esq.

Overview

When a college student is a victim of a crime of violence today, she will probably receive guidance and counseling from their University. This advice often goes beyond psychological support but also includes suggestions relating to whether to report crime;whether to seek counsel and various rights and remedies existing under law. In many cases, the advice which is given is incorrect or fractional. The student crime victim is left to fend for herself without proper legal guidance and will sometimes make incorrect decisions with long lasting effects. In many instances, especially in cases of campus rape, there are clear conflicts of interest in university employees providing any type of information as to what a crime victim should do legally. Victim advocates and legal counsel, independent from colleges and universities, are needed to fairly and adequately assist the victims and to properly and fully inform them of their legal rights.[1]

On some college campuses, independent lawyers, paid through student tuition are present to advise students of their rights, both criminally and civilly.[2]

Conflicting Loyalties

Regardless of the legitimacy of their concerns for the victim or the genuineness of the universities' employees' motives, a college administrator or college health services employee is simply ill-equipped to advise student crime victims of their rights. As an employee of the university, an administrator may have loyalties and obligations to the college,[3] which can result in subtle coercion of the crime victim based upon a wish to protect the university from liability. Rape victims in particular are psychologically vulnerable and may accept the recommendations of those in authority without questioning the advice. Sometimes victims of violent crime who are unaware of their rights and the actual working of the justice system, are dissuaded from involvement in the criminal prosecution of their assailant because, they are told, it would be too "emotionally devastating." In truth, many colleges are afraid that once a matter reaches the stage of a criminal prosecution, the liability of the institution itself may be examined. Administrators are also concerned about negative publicity over an occurrence of crime on campus.[4]

> ***Where the colleges encourage a victim's involvement in the judicial board instead of pursuing criminal or civil prosecution, this may violate due process rights under the Fourth Amendment of the U.S. Constitution. Colleges should not be in the business of discouraging students from reporting crime to the police under the guise of handling the matter via the internal forum of conflict resolution called the "Judicial" board. The moment a criminal matter of violent crime is "usurped" from the proper state authorities, the probabilities increase that the rights of the victim or the accused will be harmed. University legal counsel's complicity in this matter is enhanced even more by the fact that the attorneys involved should know better.***

Insulated from the local police, afraid of confiding in friends, student crime victims are unable to obtain the independent, accurate information they need to make proper decisions as to what to do. The matter is often worse where the alleged assailant is a college athlete.[5] Here, campuses tend to polarize. A victim is often the subject of ridicule and harassment by students who do not believe allegations which are made against a popular male student. Unfortunately, in the academic community accusers and alleged assailants will remain together in the same environment. Care must be taken to prevent post-incident harassment of the crime victim and to allow the criminal justice system to sort out if any wrongdoing has occurred.

Victim Advocates

In many locations, it is difficult to obtain private legal counsel experienced in victim rights to represent student crime victims on the university campus. However, a program of victim rights advocates established by the university, but economically independent from the institution, should be established to provide detailed and accurate information and make proper referrals to experienced lawyers in the area.

Conflict for the Campus University Legal Counsel

Frequently, attorneys retained by the university who act as "in-house counsel" for the university become involved in advising student victims of violent crime as to their rights and remedies. Because these lawyers are not representing the victims and because they are paid by the college these attorneys are faced with inherent conflicts.[6] College counsel have recommended to victims that they refer this matter to the internal university judicial system instead of the normal criminal authorities. This is patently improper.[7]

Most universities have a judicial board which is an internal organization established to resolve conflicts between students or students and faculty. The board itself is generally composed of both students and faculty members who are "judges" at a hearing at which individuals present their case for the board's determination. Unfortunately, many violent crimes (as defined by state law) have been handled informally through the judicial board by recommendation of the school administration to the victim. In some cases, victims are subjected to unbridled cross-examination at hearings by defense counsel hired by the accused. They are often without the benefit of their own counsel and are intimidated from contacting the police authorities or pursuing criminal prosecutions or civil claims. Judicial board hearings are not designed to protect the participants. Where the colleges encourage a victim's involvement in the judicial board instead of pursuing criminal or civil prosecution, this may violate due process rights under the Fourth Amendment of the U.S. Constitution. Colleges should not be in the business of discouraging students from reporting crime to the police under the guise of handling the matter via the internal forum of conflict resolution called the "judicial" board. The moment a criminal matter of violent crime is "usurped" from the proper state authorities, the probabilities increase that the rights of the victim or the accused will be harmed. University legal counsel's complicity in this matter is enhanced even more by the fact that the attorneys involved should know better. Universities must address this issue with their own lawyer.

Solutions

There are a number of potential solutions to the inherent problem of the conflict of interest faced by a university and its employees in counseling and advising student victims of violent crime. The goal is to afford the victim proper advice from persons experienced in the legal system as it relates to violent crime and who are not compromised by being on the university payroll.

One solution is for the university to make available a list of private civil counsel in the area near the university. Students could then obtain legal advice on their own. Most private civil lawyers who handle claims on behalf of violent crime victims work on a contingency fee basis which is not monetarily burdensome. Another solution is for the university to set up a program in which a lawyer is hired to work on campus for the purpose of advising students as to their various legal rights. This lawyer, paid by student's tuition, would serve numerous purposes for the ultimate benefit for the students. Obviously, this works only on campuses with a large enough student population to support such an effort, but where there are a number of universities in a particular geographic location, monies can be pooled to have a circulating attorney on various days.

Conclusion

The role of the university personnel, including institutional medical care providers, should be examined closely for inherent conflicts where advice is given to crime victims, particularly victims of rape. Even the most well-intentioned suggestions may be so wrong as to expunge a student's legal rights altogether and ruin any prosecution of the alleged assailant. Until such time as these issues are more fully examined by the universities themselves, not only will victims be given bad advice, but universities will place themselves in a position of vulnerability for lawsuits based on the violations of Due Process rights of the United States Constitution resulting from wrongfully counseling student crime victims.

Jeffrey A. Newman, Esq., a Member of the Board of Directors of Security on Campus, Inc., is the Senior partner of Newman, Heineman, & Itzkowitz in Boston. He represents victims of violent crime, including crime victims on college campuses and has won several celebrated verdicts and settlements in this area of law.

The University of Central Florida has created a comprehensive program designed to provide information, advocacy and support to its victims of campus crime. Since 1992, the Florida University System mandated all nine of its universities to provide "advocate services" to violent crime victims.

The author has written legislation to be presented before the Massachusetts Legislature requiring every college and university to have independent counsel for the students as is the case of the University of Massachusetts Amherst, Massachusetts, a campus of over 35,000 students. The Director of that program is Charles DiMare, Esq., Student Legal Services, University of Massachusetts, 922 Campus Center, Amherst, Massachusetts 01003-1218; telephone no.: (413) 545-1995.

Sexual Assault on Campus. Lexington Books, Bohmer, Parrot 1993.

Fraternity Gang Rape. New York University Press 1990. Sanday, Peggy.

Lawyers are legally barred by the Cannons of Ethics and the Disciplinary Rules. For example, DR 6-101 says that "A lawyer shall not handle a legal matter which he knows or should know he is not competent to handle..."

Sexual Assault on Campus. Lexington Books, Bohmer, Parrot 1993 at 81.

Campus Violence: Kinds, Causes and Cures. Whitaker and Pollard, Haworth Press, Inc., 1993.

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Victim's Rights Kudos

☞ Temple University - Law School

After three years of persuading students and faculty, the Temple Law School approved an Anti-Stalking Provision to its Code of Student Conduct, which reads as follows:

> "It is now a violation for a Temple Law School student to: engage in a course of conduct, including but not limited to stalking, directed at a member of the law school community which would cause a reasonable person in the victim's position severe emotional distress or which would place a reasonable person in the victim's position in fear of bodily injury or death, provided that this provision shall not be interpreted to abridge the right of any member of the law school community to freedom of expression."

(Source: The Faculty of Law & Student Government at Temple University 4/[illegible])

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Legal Notes

☞ Univ. of Massachusetts - Dartmouth

A grand jury refused to indict the remaining two U-Mass. hockey players involved with the sexual assault on a sophomore classmate and neighboring resident, in the Cedar Dell apartment complex on campus. Jeramie DiBona, 20 of Weymouth, was charged last May with rape, sodomy and indecent assault and battery; Brendan Murphy, 21 of Malden, was charged with indecent assault and battery. The jury refused to indict the last of five U-Mass. hockey players charged in the assault, after an unusual prosecution decision to allow the defense to present evidence to the grand jury - a legal course taken when "prosecutors sense they have a weak case they want disposed of quickly."

DiBona's attorney, J. Albert Johnson, criticized the school's campus police and university officials with an O.J. style "rush to judgment" accusation, for condemning the young men "in a fashion that was unmistakably ignorant of the presumption of innocence." Also, Johnson was quoted by the Associated Press (9/19/95) as saying "Believe me, I don't know what happened, except that there was no criminal wrongdoing." One of the three previously acquitted player's father, Roland A Demers, said he was considering suing the university police for false arrest, claiming that the charges nearly "destroyed" his son's life.

Following the grand jury's decision, the 22 year old victim said she will seek civil action against the U-Mass hockey players. Expressing her disgust, she said: "...I was the one on trial, I also think that basically the body of evidence that is required to indict these men doesn't fit the standards of what rape is, in today's society...But, what type of evidence wasn't clear: blood, bodily fluids, or the pictures of bruises?...I have a feeling it wasn't my testimony they cared about ...I have been exposed to a criminal system that is unjust." Also, the victim commented that she shouldn't have to leave U-Mass. because of the attack.

As of Sept. 28, both the victim and the alleged assailants are back attending classes on the U-Mass. campus - although, the hockey players have been denied on campus housing, pending disciplinary review.
(Source: New Bedford Standard-Times 5/7/95, and 8/27/95, and 9/19/95, and 9/22/95)

☞ University of Pennsylvania

The University, a former professor and Bates College settled a student-faculty sexual harassment case for undisclosed terms, in April. Lisa Topol sued Penn last year claiming that officials had not investigated her 1993 complaint against her English professor, Malcolm Woodfield, who subsequently resigned. Ms. Topol also sued Bates College, contending that it had withheld information that Woodfield had harassed students there.
(Source: Chronicle of Higher Education 6/2/95)

☞ University of Rhode Island

A federal jury has ruled against the University and a fraternity, in favor of a student who was raped at an on-campus fraternity party in 1990. The court awarded $1.2 million in damages to the plaintiff - a freshman woman who was raped in an upstairs bedroom at the fraternity during a keg party.

The jury agreed with the plaintiff, who was 18 at the time of the attack, that the University had failed to supervise the fraternity and allowed alcohol to be served to minors. It also found the fraternity negligent. An issue that was not resolved was the defense's claim that the University does not stand "*in loco parentis*."
(Source: Providence Standard Times 6/16/95)

☞ U.S. Supreme Court

In a case called *Vernonia School District V. Acton*, the Supreme Court's 6-3 ruling upheld a public school's right to require drug testing for students as a condition of playing sports. The case involved Mr. James Acton who sued the Oregon school district in 1991 when, as a seventh-grader, he was suspended from his school's football team because he and his parents refused to sign a consent form for random drug testing.

The majority opinion, written by Justice Antonin Scalia, said that public schools have a special responsibility to care for students, and that there is a compelling interest in "deterring drug use by our Nation's schoolchildren." In the Oregon district, he said, the drug problem is "largely fueled by the 'role model' effect of athletes' drug use."
(Source: Chronicle of Higher Education 7/7/95)

☞ University of North Florida

In *Alexander v. University of North Florida 39 F.3d (11th Cir. 1994)*, an appellate court reversed, holding ambiguity in state law as to whether state owes duty of protection to person in non-custodial relationship.

The case relates to a student who was harassed and threatened by a fellow student. The university learned of the altercations and suspended the perpetrator, who subsequently shot and killed the victim while he was attending class. The defendant's estate sued the university on grounds of special relationship and charging the university with failure to intervene, protect and respond.

The University filed a motion for dismissal based upon qualified immunity. Motion denied and defendants appealed. An appellate court reversed and ruled that due to this ambiguity, there was no "clearly established" constitutional right overcoming immunity.
(Source: National Crime Victims - Civil Justice Database)

☞ Lycoming College

Four former security officers have filed suit in county court, alleging that they were wrongfully fired after informing authorities that drugs seized on campus were illegally stored or destroyed. The four officers contend they were fired 11/25/92 for reporting to county law enforcement officials that the college was storing illegal drugs and paraphernalia in a security office safe, which is a violation of state drug laws.

In defiance of college officials and their supervisor's instructions, the plaintiffs allege that they were summarily fired after the District Attorney's Office obtained a search warrant and found illegal drugs and paraphernalia in the college security office. (11/24/92)

Dean of Students, Dr. Benjamin Hogan, fired the officers for what the college called "insubordination" and "willful misconduct."
(Source: Sun-Gazette 5/13/95)

Campus Watch

☞ University of Kansas

A former law professor, Emil A. Tonkovich - fired in 1993, has filed suit against the university contending that his constitutional rights of free speech and due process were violated during the university's hearing process.

After investigating accusations by a former law student, who said that Tonkovich had pressured her to perform oral sex, the faculty held 33 days of hearings and heard from 49 witnesses on a variety of charges before deciding that Tonkovich was guilty of moral turpitude and had engaged in a pattern of unethical behavior.

Tonkovich, who declined comment, is seeking reinstatement to his tenured position, as well as back pay and punitive damages.
(Source: Chronicle of Higher Education 1/20/95)

☞ College of William & Mary

Legal representatives for the college filed a complaint in federal court against a professor, Mr. Abdalla, asserting that he should be held responsible for damages resulting from the sexual harassment charges filed by a student. College officials assert that it had prohibited sexual harassment, and that Mr. Abdalla should be held accountable for his actions, not the college. Mr. Abdalla has denied the charges, and said he is disappointed that the college has failed to back him up.

A similar sexual harassment case influenced the Virginia Commonwealth University to file a similar claim against their faculty member. But federal Judge Robert R. Merhige, Jr. ruled that V.C.U. can be held responsible for a professor who has been accused of sexually harassing one of his students, even though the university said it moved quickly to address the problem.

Attorneys are focusing their suits on a recent federal appeals court decision, Karibian v. Columbia University, which found that institutions can indeed be held responsible for sexual harassment committed by their employees.
(Source: Chronicle of Higher Education 6/9/95, and 7/7/95)

☞ Montana State University

A District Court jury has found that the university was not responsible for the deaths of two students, James Clevenger and Brian Boeder, who were shot to death (1990) in their residence hall by another student. In the criminal trial, Brett Byers was found guilty of the murders and sentenced to 165 years in prison.

Timer Moses, a lawyer for the victim's families, said he expects to appeal. Each family had sued for $1.3 million.
(Source: Chronicle of Higher Education 7/14/95)

☞ University of Michigan

Federal Judge Avern Cohn dismissed charges against a former student, Jake Baker, who had been charged with transmitting threats over the Internet.

Baker (aka Abraham Jacob Alkhabaz) made a series of transmissions on the Internet outlining various threats, detailing the torture, rape and murder of a female student at the university. At least one of the threats named an undergraduate Michigan student as the victim.

Judge Cohn wrote that Baker's messages were "only a rather savage and tasteless piece of fiction."
(Source: Chronicle of Higher Education 6/30/95,
Campus Crime 4/95, p. 38)

☞ Bucknell University

A student has filed suit against the university, charging Bucknell with negligence for failing to properly supervise students and for allowing underage drinking. Also, the suit alleges that the institution's football program trains and encourages athletes to be violent on and off the field.

Football player, Michael Phillips, was convicted in February on a felony charge of aggravated assault, and a misdemeanor charge stemming from a fight which took place in a Bucknell residence hall. Phillips was to be sentenced in June and faced up to 21 years in prison and $27,500 in fines.
(Source: Chronicle of Higher Education 6/2/95)

* * *

Surveys & Trends

(continued from pg 7)

☞ Date Rape

Associate professor of sociology and anthropology at Lehigh University, Joan Spade, lectured in March that date rape is increasing at an alarming rate on college campuses. "One out of four women in college will be raped or experience attempted rape," Spade said.

In 1991, Spade conducted a survey at Lehigh of 672 female and male students, using a majority of freshman and members of the Greek system. Twenty-seven percent (27%) had been victims of date rape and, of that number, 24% of those women acknowledged the act as rape. Twenty-two percent (22%) said they were raped at Lehigh. The survey's male respondents indicated that 3% actually admitted to forcing the women into having sex.
(Source: Lehigh Brown & White 3/28/95)

☞ Sexually Transmitted Diseases (STD)

According to a new survey on women's health, sponsored by the American Social Health Association (ASHA), many of the rape and sexual assault victims are at risk of contracting sexually transmitted diseases, since "forced sex is unlikely to involve STD protection".

Also, the survey of 1,000 respondents at universities in the mid-Atlantic states found 85% of women are sexually active, with oral sex the most frequently reported sexual activity. A disturbing statistic generated by the survey revealed that 75% of the women said they never used condoms for oral sex, while two-thirds did not use condoms for vaginal intercourse.

Nationwide, people under the age of 25 account for two-thirds of the 12 million new sexually transmitted infections each year. One of every four infections occurs among teenagers, according to ASHA.
(Source: Campus Crime 8/95, p. 63)

(Continued on Pg. 14)

Campus Watch

Faculty "Affairs"

-by Jenna Santangelo & Ben Clery

Allegations of sexual assault against faculty members has reached obscene levels - perhaps warranting a perverted new entry for the Guiness Records. In response to the torrent of sexual assault suits, many colleges and universities are writing new policy that stipulates the limitations on faculty-student relationships. Most schools already have policy that addresses sexual harassment in the context of an employment relationship; evidently, such policy needs to be recast in the context of faculty-student relationships because a large number of faculty consider students "fair game." Although, they would like everyone to believe their intentions are purely "romantic", and in some instances "noble."

> ***"I have been the subject of advances from male and female students for twenty-five years. I've had them come at me right and left. I've had people take their clothes off in my office....but there is a kind of student I've come across in my career who was working through something that only a professor could help her with. I'm talking about a female student who, for one reason or another, has unnaturally prolonged her virginity... And if she loses that virginity with a man who is not a teacher, she's going to marry that man, boom. And I don't think the marriage is going to be very good. There have been times when this virginity has been presented to me as something that I, not quite another man, half an authority figure, can handle- a thing whose preciousness I realize. These relationships... are very powerful sexually and psychologically, and because of that power, one can touch a student in a positive way."***
>
> - William Kerrigan, English Professor
> University of Massachusetts (Amherst)
>
> Excerpt, Harpers Magazine, Sept. 1993

In fact, a number of professors across the country defend consensual sexual relationships between faculty and students. A group called ***Consenting Academics for Sexual Equity*** was founded in April 1994 by Barry M. Dank, a sociologist at California State University at Long Beach. About 50 members joined the group within a months' time, after the message was posted on the internet. The group's E-Mail is case@beach1.csulb.edu. (Chronicle of Higher Education 5/25/94)

Consenting Academics defends even the most controversial type of relationship, in which the student is enrolled in the professor's course. Mr. Dank believes that policies against such behavior "are a form of 'tyranny' that infantilizes students - particularly women."

Such scandalous attitudes have prompted the North Carolina university system to consider a policy limiting faculty-student sexual relations on all 16 campuses. In July, Christopher Soderlund filed suit and alleged that in 1984, when he was a 16-year-old student at UNC School of the Arts, a dance instructor seduced him into an exploitative homosexual relationship. Soderlund charges that "dance instructors Richard Kuch and Richard Gain taught students that dance is sexual expression, that they'd be better dancers if they had sex...that instructors who "flirted" with students were simply a fact of life." Soderlund assumed what he was doing was an 'acceptable practice.' The lawsuit alleges that many administrators were aware of the situation but did nothing to protect or warn the student who believes he was dismissed from the school because he refused Richard Kuch's advances. The two professors have denied all charges but were suspended in June after other students corroborated Soderlund's allegation (Source Charlotte Observer 9/11/95)

This controversy comes just weeks after UNC-Chapel Hill English professor James D. Williams resigned after admitting he had sex with two female students (Source Chronicle of Higher Education, 7/28/95). UNC adopted a policy this spring forbidding sex between faculty and staff. Five other campuses already have such rules, including UNC Charlotte. The UNC School of the Arts may also adopt a new policy - in addition to its sexual harassment policy - which forbids faculty from having sex with students they supervise or teach.

Anna Gilcher, graduate student in romance studies at Duke University, experienced such a consensual relationship when she was 19 and a sophomore in college - her "boyfriend" was 33. She says "the power distribution was clear...the relationship placed me in an extraordinarily precarious and vulnerable position... and I support such policies, whether they are effective because professors become aware of the dangers for the student through them or because they think twice since they must worry for their jobs because of them." (Source Chronicle of Higher Education 1/19/94)

Stanford University adopted a new sexual harassment policy in 1993 which "specifically warns of risks when relationships occur between individuals in 'inherently unequal positions,' such as instructors and students. Such relationships are warned to be 'less consensual than the individual whose position confers power.'" (Source Campus Crime 11/93)

Many colleges feel that "seeking a middle ground" will serve to address the rights of both students and faculty to be treated as adults, as well as alleviating their own fears of sexual harassment lawsuits. In April of 1993, the Faculty Senate at the University of Virginia voted 31-4 in favor of banning relationships between faculty and students directly under their supervision.

Amherst College, University of Nevada-Reno, and California State University-Chico prescribe a similar policy, and at Weber State University a policy was recently adopted whereby consensual

relationships are not barred, but instructors or supervisors cannot evaluate the academic work or job performance of their "romantic partner"
(Source: Campus Crime 8/95)

Only a few schools, however, prohibit faculty-student relationships altogether. They include Tufts, Harvard, the College of William & Mary, the Minnesota State system, and the Universities of Pennsylvania, Iowa, Kansas and Wisconsin at Madison (Campus Crime 3/94)

The School of the Art Institute of Chicago formulated an comprehensive sexual harassment policy in 1994 that covers the needs of faculty, students and staff (Personnel Journal, 8/94). Two federal anti-discrimination laws were necessary to consider when developing their sexual harassment policy: Title IX of the Educational Amendments of 1972 and Title VII of the Civil Rights Act. Title VII protects only those individuals who have an employment relationship with an employer. This would cover faculty and staff in an academic setting, but would only protect students if they are employed by the school. Title VII victims are entitled to a jury trial and compensatory damages. In contrast, Title IX covers all students and prohibits discrimination on the basis of gender of students in institutions of higher learning that are receiving federal funds. Under Title IX, neither damages nor a jury trial are available.

The Art Institute team concluded that the first priority in creating a policy is to define sexual harassment in clear, concise language. The most vital part of the policy is to detail the procedure of how an individual can file a complaint and bring the charges to the attention of management. It is also very important that the policy clearly convey how the issue of confidentiality would be handled.

A sexual harassment rider to the contract of every school employee is advisable to narrow the institution's liability.

The School of the Art Institute's policy has been used by at least three other schools, and the absence of subsequent sexual harassment allegations suggests that it is good policy.

Perhaps this "issue" should be democratically addressed by polling the institution's customers - students and parents - regarding their views on the merits and implications of faculty-student affairs. But, common sense implies that the vast majority of these "relationships" are ephemeral, and that the "romance" will probably deteriorate into an adversarial situation wherein the student feels abused because a faculty member has failed to discipline his/her sexual ambitions.

* * *

Sexual Harassment

☞ Cornell University

James B. Maas, professor of psychology, was found guilty in June of repeatedly sexually harassing four former students. Mr. Maas now believes he was the target of a "witch hunt" by the administration and faculty and is now suing the university for $1.5 million. He is represented by The Center for Individual Rights, a non-profit libertarian law firm based in Washington, D.C., which focuses on representing individuals who regard themselves as victims of political correctness.
(Source: Chronicle of Higher Education, 9/6/95)

☞ University of Texas - Arlington

A 67-year-old professor was charged with trying to lure one of his students into a prostitution ring in February 1994. He denied the charges.
(Source: Campus Security Report, July 1995)

☞ California State University - Chico

Joseph R. Conlin, professor of history, is suing the university after a colleague charged him with sexual harassment. Mr. Conlin had circulated a memo suggesting that the department create a faculty-student "conference room with ceiling mirrors and a waterbed, ... particularly valuable on those occasions when a student is unhappy with her grade." He called the memo a joke and moved his office to another building. His colleague, Jacqueline Barnhart, was awarded $15,000 by the CA state system.
(Source: Chronicle of Higher Education, 7/21/95)

☞ Brown University

A former assistant track coach was convicted of raping a female student on the team twice (in 1990 & 1991). Brown did not renew his coaching contract and he faces 10 years to life in prison.
(Source: Campus Security Report, July 1995)

☞ West Virginia University

A former researcher was convicted of raping three female students in 1993 and has recently been sentenced to up to 75 years in prison. His contract was not renewed after his 1992 arrest.
(Source: Campus Security Report, July 1995)

☞ Indiana University - South Bend

Former chancellor H. Daniel Cohen resigned amid allegations that he sexually harassed a female employee. He has been granted a 1-year paid sabbatical for 1995-96 and will return to a position of tenured professor of physics in 1997. The Academic Senate is further investigating whether he should be removed as a professor.
(Source: Chronicle of Higher Education, 6/23/95)

☞ Louisiana Christian University

President John Graves was indicted on charges of raping 3 girls at a Tx religious center which he also ran.
(Source: Chronicle of Higher Education, 5/5/95)

☞ City University of New York - College of Staten Island

Dino Cinel, professor of Italian-American studies, was removed from the college in March 1995. Mr. Cinel was formerly accused of homosexually exploiting young men in the 1980's while he was a priest and tenured associate professor at Tulane University. CUNY removed Mr. Cinel from teaching in 1991 but continued to pay him $70,000 for research.
(Source: Chronicle of Higher Education, 4/14/95)

☞ New Mexico State University

Eduardo Araiza, graduate teaching assistant, was indicted on charges of raping and attempting to murder a pregnant student. He has confessed and resigned from the university.
(Source: Chronicle of Higher Education, 4/14/95)

(Continued On Page 14)

Campus Watch

☞ Boston University

President John Silber fired 60-year-old Arveh Motzkin, assoc. professor of philosophy, after finding that he had sexually assaulted a faculty member and sexually harassed at least 3 students over a period of 4 years. Motzkin has denied all charges and filed a civil suit against BU for discriminating against him as a mentally handicapped person.

(Source: Boston Globe, 4/6/95)

☞ University of Miami

Jiri Valenta, tenured professor in the Graduate School of International Studies, was fired after a faculty committee found him guilty of sexual misconduct involving 7 women. Valenta denied the charges.

(Source: Chronicle of Higher Education, 10/6/93)

☞ University of Kansas

Emil A. Tonkovich, tenured law professor, was dismissed after a faculty panel found he had sexually harassed numerous female students, including pressuring a former law student to perform oral sex. There was testimony from 49 witnesses, but Tonkovich denied all charges. Their decision was upheld in Sept. 1994.

(Source: Chronicle of Higher Education, 8/11/93; Campus Security Report, July '95)

☞ University of New Mexico

John Samson, 36-year-old editor of the campus paper, the Daily Lobo, was permanently suspended from his post after being found guilty of sexually harassing and abusing 3 women journalists.

(Source: Editor & Publisher, 1/30/93)

☞ Arizona State University

Former president John N. Mangien was fired in April 1994 for sexual misconduct and harassment. He denied the charges and sued the board of trustees.

(Source: Campus Security Report, July 1994)

☞ Cuyahoga Community College

Professor Reginald Sevayega was convicted of raping a student in a campus building in the summer of 1992.

(Source: Chronicle of Higher Education, 7/14/93)

* * *

Survey & Trends

(Continued From Pg. 11)

☞ Weapon-toting Students

A survey released in June revealed that 7.5% of college students had carried guns, knives, or other weapons in the 30 days before they were polled.

The survey found that 12%of students polled do not "feel safe" on their campus.

(Source: The Chronicle of Higher Education 6/23/95)

☞ Binge Drinking

Drunken parties are a way of life, and half of the freshman get smashed during their first week on campus, according to a December '94 survey released by the Harvard School of Health which focused on freshman entering "this drinking culture." The survey sampled 17,592 students at 140 colleges in 40 states.

Binge drinking is defined as consuming five or more alcoholic drinks in a row. According to an updated survey that sampled 720 freshman at 13 of these heavy-drinking schools, 68% of the new freshmen had binged by the end of their first semester; 54% had binged in their first week.

Dr. Timothy Brooks, dean of the University of Delaware, said many college administrators view drinking as their biggest problem, and that the latest freshman data "are right on target."

Among the survey findings:

»During the first semester, male and female freshmen binged almost equally.

»Every freshman questioned said alcohol was very easy to get on campus, and 96% said school drinking rules had no effect.

»More than half of those who binged regularly said they sometimes forget what they do while drunk or regret things they remember.

»While 84% called alcohol a problem on-campus, just over half considered it "appropriate" to get drunk at parties or with friends.

Owning a top spot on Playboy Magazine's list of top party schools wasn't exactly an honor Central Connecticut State University officials boasted in the late 1970s. Today, it is one of the few dry campuses in New England. Lt. Soderbur, who has seen the policy evolve over the years, would be the first to say that drinking still exists on campus since the ban. But he'll also add it's no longer a disease flaunted throughout the community... "years ago when we allowed alcohol here it was out of control. We had to tuck people into bed because they were so drunk. There were kids almost dying from alcohol poisoning on the weekends," he explained. Campus police said the "ban" has cut a yearly case load from 30,000 to 20,000.

(Source: The Oregonian 4/8/95,
New Bedford Standard Times [illegible])

* * *

- Sports Felons -

The next issue of Campus Watch will feature an editorial that examines the alarming number of football and basketball felons who have been recruited by coaches and athletic departments that want to win at any cost.

Convicted rapist and sodomist, Richie Parker, created a scandal at Seton Hall, the University of Utah, and George Washington University when their basketball programs tried to quietly recruit him. During the past year, the University of Tennessee's football program has been rocked by eight arrests, including rape and sodomy charges against wide-receiver Nilo Silvan. The University of Miami's football team is so rampant with criminals that a Sports Illustrated writer published his letter to President Foote requesting that he disband the "scandalous disgrace."

Calendar Notes

1995

	10th Annual Conf. of Campus Violence Prevention Center. For more information, call Dorothy Siegel at Towson State Univ. (410) 830-2178
/21-27	National Crime Victims' Rights Week '95
/30 - /2	IACLEA 38th annual meeting in Charleston, S.C. For more information, call Doug Tuttle at ((302) 831-2222
Fall	Report to Congress on Student Right-To-Know Act of 1990 (see Pg 5)

Campus Watch

1995 Jeanne Clery National Safe Campus Award Recipients:

St. Cloud State University
Public Safety Department
(L>R: Lt. David Fletcher, Sgt. Brian Mixdorf, Sec. Coord. Julie Lundgren, Dir. of Safety Mark Petrick, Admin. Ass't. Elaine Quimby)

The women and men of St. Cloud State Univ. Public Safety Department are committed to accurately reporting campus crimes. They receive all information concerning sexual assaults on campus from the Women's Center and include these statistics in their annual report.

University of Washington
Police Department/Bicycle and Crime Prevention Units
(L>R: Chief Roger Serra, Sgt. Steve Robinson, Off. Jeff Eddy, Off. Alan Grazier, Sgt. Ray Wittmier)

The Univ. of Washington has been reporting campus crimes through their POLICE BEAT newsletter prior to the enactment of the Student Right-To-Know and Campus Security Act of 1990.
They've found that by truthfully informing students campus crimes have decreased.

Josh Gerstein

Josh Gerstein has been a lifelong crusader for openness in the educational and criminal justice systems. While a student at Harvard University, he wrote legislation which required college and university police departments to maintain a public log of all reported crimes and arrests. The bill was signed into law in Massachusetts in 1991 and has since become a model for similar legislation in other states. Josh now works as a producer for ABC News in Washington, D.C.

Jenny Katzoff

Jenny Katzoff began two organizations when she was a junior at Barnard College, Columbia University. The first was GUAVA (Greeks United Against Violence and Assault). This inter-Greek board works in conjunction with administrators and other student organizations to oversee student confrontations. The second organization she formed was Concerning Women, a national computer-based network linking anti-violence programs among college campuses. Jenny is now in her second year at Brooklyn Law School.

BEST COPY AVAILABLE

-Please Help-

Since 1987 Security On Campus, Inc. has been the driving force behind (3) Federal Laws and (22) State Laws that promote student safety and protect student-victim's rights. S.O.C. was founded in memory of Jeanne Ann Clery and the thousands of campus crime victims, so that other students and parents will be spared victimization.

❦❦❦

Dear Friends,

Your contributions to SOC have helped to make our nation's campuses safer. We are making steady progress but it's an uphill battle in this violent world.

We need your financial support to continue working for safer campuses and helping student-victims.

Please send your contribution today (envelope enclosed).

Happy Thanksgiving!

Connie + Howard Clery

Security On Campus, Inc.
215 W. Church Road, Suite 200
King of Prussia, Pa. 19406-3207

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CompuServe E-Mail: 75050,1436
Internet E-Mail: 75050.1436@CompuServe.com

To be forewarned is to be forearmed !

Volume II, No. 1

Campus Watch

Winter-Spring 1996

Dedication:
Jeanne Ann Clery
1966-1986

April 5, 1996 marks 10 years since our beloved Jeanne was so brutally raped and strangled to death by a fellow Lehigh University student, who initially intended to rob her dormitory room as she slept. The criminal trial determined her assailant to be an alcohol and drug addict with a history of sexual deviance. Our hearts still scream in pain, she was the joy of our lives, our gift from God.

We never would have survived this eternal nightmare without the love and support of our family and friends, and our faith in God. You all have helped us in making our nation's campuses safer. Please continue to help by writing your Congressmen and Senators urging them to co-sponsor the "Open Campus Police Logs Act of 1995", H.R. 2416 (See Article On Pg 4).

Only if students are aware of the campus crimes will they take appropriate precautions to protect themselves. HR 2416 would give them timely crime information that they need. Thousands of lives will be saved over the years...maybe someone you know or love. Don't delay, write today.

Thank you for caring and helping to save lives on our college campuses.

- Connie & Howard Clery

Campus Spotlight

☞ Rhode Island College

One student was hospitalized with a shoulder wound after a series of gunshots were fired outside of a campus dance on November 2. Police were seeking a woman, who had come with the disk jockey.
(Source: *The Providence Journal*, 11/3/95)

☞ Oakland University

Tina S. Biggar, who had been missing for 28 days, was found dead behind a house in Southfield, Michigan. Kenneth R. Tranchida, a "drifter" has been charged with first-degree murder. Tranchida confessed to the crime, but the confession is inadmissible in court because he had no lawyer present, according to police. Biggar had been involved in a campus project interviewing area prostitutes and police suspect that she herself was a prostitute.
(Source: *The Chronicle of Higher Education*, 10/20/95)

☞ Lehigh University

A Lehigh student was robbed at the ATM near the entrance to the campus bookstore in October. Two suspects held a knife to the throat of the student and took turns robbing him of $338. The suspects were Hispanic males about 19 or 20 years of age. Following the incident, Lehigh President Peter Likins sent an e-mail safety alert to the campus community.
(Source: *The Brown & White*, 10/13/95)

☞ Rutgers University

A Rutgers University graduate student was kidnapped from a New Brunswick campus garage last September and raped by her ex-boyfriend in his family's home in Port Monmouth according to police. Brian P. Dunphy, 23, has been charged for the crimes.
(Source: *Asbury Park Press*, 9/28/95)

☞ Philadelphia College of Textiles and Science

An 18 year old freshman was raped in her third floor room in Mott Hall at the Philadelphia College of Textiles and Science in late January by an intruder who had gained admittance to her room by claiming to have a "badge." The assailant had apparently followed another student into the normally locked residence hall. The institution was considering reevaluating safety procedures including posting guards at dorm entrances and 24-hour resident sign ins.
(Source: *The Philadelphia Inquirer*, 1/31/96)

Continued On Page 2

Campus Watch, Volume II, Number 1, Winter Spring 1996. Benjamin F. Clery, Editor In Chief. Published by **Security On Campus, Inc.** a Non Profit 501 (c)(3) organization.
Howard K. Clery, Jr., President; Constance B. Clery, Secretary; Howard K. Clery III, Treasurer; Benjamin F. Clery, Vice President;
Frank Carrington, Esq. (In Memory); Jenna A. Santangelo, Administrative Assistant; S. Daniel Carter, Regional Vice President

Campus Watch

Campus Spotlight

(continued from Pg. 1)

Brown University

In December, Brown University President Vartan Gregorian announced the institution's decision not to arm their campus police. He cited "a climate of uncertainty, as to the effects that armed police officers would have on the broader community."

In February, BUPD officer David Boucher came forward with allegations that there "are a lot of robberies, armed robberies, that are never publicized," and that this apparent suppression of crime data probably affected the public's opinion about safety during the debate about arming the Police.

Brown has 21 officers who are licensed and qualified to carry firearms. The Security Patrol cited an "overwhelming increase in the percentage of violent crimes as well as an increase in the presence of deadly weapons" and expressed concern about their ability to protect the campus, and themselves without being armed.

(Source: *The Brown Daily Herald* 1/14/98, 1/14/98)

☞ Lehigh University (update)

Christopher M. Bissey, 18, was charged in January with murdering Jennifer Grider, 17, and Mary Orlando, 15, last June at the "Lookout Point" section of campus. Grider allegedly feared that Bissey would kill her over a $400 cocaine debt. Orlando's boyfriend came forward with this information after initially being advised by a public defender not to divulge the information to police.

(Source: *The Philadelphia Inquirer* 12/8/97, 12/9/97)

☞ Clemson University

Four student-athletes were arrested on February 20th for raping and sexually assaulting an 18-year-old classmate. The four freshmen, Adrian Kennell Dingle (18), Christopher Rice (19), Eric Bernard Williams (18) and Bennie K. Zeigler (18) were all members of the University's football team prior to their suspension.

☞ University of Kentucky

Dr. Lane T. Veltkamp, a psychiatrist who evaluates murderers for the state's criminal courts, was himself shot after the Kentucky v. Tennessee basketball game in January, near Rupp Arena. The gunman chased Veltkamp, his wife and another couple, and then fired at him through his car, wounding him in the shoulder.

(Source: *The Kentucky Kernel* 1/16/98)

☞ Wake Forest University

Campus Police Chief, Regina Lawson, reported that 25 vehicles had been vandalized and robbed during October, noting 10 incidents in one evening. Stereo equipment was cited as the most commonly stolen item.

(Source: *The Old Gold & Black* 11/9/95)

☞ Florida State University

Freshman Jeffrey T. Knowles (19) was arrested for setting 10 small fires on campus during the first week in February. The worst fire charred volumes of bound magazines in the library. Knowles had been arrested on a forgery charge last April, and police ran a photograph of him in the local newspaper as a suspect in campus mailbox robberies.

☞ Boston University

A part-time student was lured into an assault around 10 p.m. on January 31st. She was walking alone near a campus library when someone claiming that he had a sick friend needed her help. She was beaten by one of the suspects but managed to escape and find a BUPD patrol officer. The BUPD, Massachusetts State Police and the Boston PD initiated sweeps through the campus but did not locate the suspects. The BUPD said that they would increase patrols near the library and in the central campus area as a direct response to this incident.

(Source: *The Daily Free Press* 2/1/98)

☞ SUNY College of Technology

Freshman Michael McAuley was arrested when a search turned up firearms and explosives in his dorm room. The search was prompted when campus police discovered an armed individual, who was a student at Alfred University, leaving McAuley's room.

(Source: *The Chronicle of Higher Education* 12/15/95)

☞ California State Univ. - Bakersfield

A series of campus crimes have catalyzed the issue to arm CSU Police Officers. A 38-year-old female student was assaulted when she arrived on campus for an afternoon class in October - she managed to escape without serious injury. The same week, a 20-year-old student was robbed at gunpoint as she approached her car. Also, a CSU officer was shot in Sept. when he attempted to apprehend two men trying to steal a van.

(Source: *The Bakersfield Californian* 10/30/95)

☞ Arizona State & South Dakota State

The student body presidents of both Arizona State and South Dakota State were arrested twice last year.

Arizona State student body president Chris Weber was charged with assault after hitting a woman in the face at a campus area bar in September. In October, Weber was arrested after he refused to leave a woman's dormitory - he was wandering around with a hood over his head "as part of a fraternity hazing ritual." An impeachment effort in the Student Senate has failed.

Dan Fuhr, at South Dakota State was arrested twice for alcohol related offenses, including drunk driving and underage consumption. Fuhr served time in a detention center.

(Source: *The Chronicle of Higher Education* 10/27/95)

(Continued on Page 9)

Campus Security on the Internet

Security On Campus, Inc. Website
http://www.bornet.org/soc/

Other Campus Websites
Johns Hopkins University Security
http://www.jhu.edu/~news_info/security/
UVA Student Watch
http://minerva.acc.virginia.edu/~watch/
SchoolNet
http://www.schoolnet.org/crime.html
Campus Security Home Page
http://www.bme.jhu.edu/~rjg/cs.html/
Sexual Assault Info. Page
http://www.cs.utk.edu/~bartley/saInfoPage.html

Campus Watch

Off-Campus Report

☞ Duke University

15-year-old Christopher Huckleberry pleaded guilty to charges in connection with the kidnapping, assault and rape of two Duke University students on September 2, 1995. The victims had been walking towards their car at an apartment complex located four blocks from the campus when they were threatened at gunpoint. The victims' car was driven to a "remote location." The male was beaten and left for dead, the female was forced to withdraw $300 from an ATM and raped twice.

Huckleberry was sentenced to 21-30 years while the other assailant, a 17-year-old, will serve up to 40 years in prison.

Also, three University employees were abducted and assaulted in Duke Forest on September 13th.

(Source: *Duke University Chronicle*, 9/6/95, 1/23/96, 2/16/96)

☞ Monmouth University

An 18-year-old freshman was attacked and raped last November evening as she was walking to her off-campus residence.

(Source: *Asbury Park Press*, 11/21/95)

☞ Catholic University

A Catholic University student was beaten and robbed by 13 youths after he boarded a commuter train near the University, in Washington, D.C.

(Source: *The Washington Times*, 10/2/95)

☞ Virginia Tech

Last December, Alexander Defilippis (22) was shot to death outside of a convenience store in Blacksburg. Authorities said that the three assailants went on to rob two other convenience stores.

* * *

Fraternity Row

☞ Tulane University

Joshua Gimelstob, a sophomore tennis player, surrendered to police for the hit-and-run death of Tulane Police Sgt. Gilbert Mast in January. The night of the incident, Gimelstob had gone to several area bars with the Pi Kappa Alpha fraternity which supplied transportation to and from the bars. Later a Jeep hit and killed Sgt. Mast who had stopped another vehicle for a routine traffic violation. Two days later Gimelstob's attorneys led investigators to the Jeep Cherokee and began to negotiate the surrender. The University says that Gimelstob was not a fraternity member, nor pledging a fraternity. Gimelstob was charged with negligent homicide and felony hit-and-run. The University has begun an investigation into possible Honor Code violations.

(Source: *Tulane Hullabaloo*, 2/9/96)

☞ University of Kentucky

The University of Kentucky suspended two Greek organizations last Fall for hazing incidents. The Kappa Sigma fraternity was accused of using "abusive and derogatory names" towards pledges, having them clean members' rooms and permitting underage consumption of alcohol in their house. The fraternity was suspended for three years and has appealed.

The Alpha Kappa Alpha sorority was suspended after members were accused of hitting a student who wanted to join.

Sigma Chi was placed on probation when members of their pledge class attempted to steal composite photographs of members from the Delta Delta Delta and Chi Omega sorority houses. They allegedly injured the Tri-Delt house mother and burned a Chi Omega member with a cigarette. Sigma Chi, which has been on probation continuously since 1989, had their probation extended until 1997.

(Source: *The Kentucky Kernel*, 1/16/96)

☞ Northern Illinois University

In January, a Federal Court dismissed a lawsuit filed by four students that were expelled for hazing. Their lawsuit claimed that they had been denied their "constitutional rights of due process and liberty."

The former students had been members of Delta Sigma Theta Sorority, Inc. which was suspended last Spring related to hazing charges. According to court papers, a pledge named "Rodgers" said that pledges were severely beaten and that she was "forced to seek medical attention for injuries to her back."

(Source: *The Northern Star*, 1/30/96)

☞ University of Iowa (update)

Following the alcohol-related death of fraternity pledge Matthew P. Garofalo (Lambda Chi Alpha), a four month alcohol ban was imposed by the University on Greek organizations "to reevaluate and reassess the use of alcohol." Greek chapter presidents voted to extend the ban until incoming officers had a chance to become acquainted with the new policies. The campus chapter of Lambda Chi Alpha has been suspended.

(Source: *Chronicle of Higher Education*, 9/29/95, 1/30/96; *The Daily Northwestern*, 1/31/96)

☞ University of Virginia

Sigma Chi and Kappa Sigma fraternity members reported that a homeless man, known as "Tony", had wandered into both houses and stole an undisclosed amount of cash.

(Source: *The Cavalier Daily*, 1/22/96)

☞ Univ. of North Carolina-Chapel Hill

Phi Gamma Delta's charter was suspended by their national office after they circulated a lewd memo urging pledges to take advantage of drunk sorority women last fall. The Inter Fraternity Council condemned the memo but a month earlier they had elected one of its author's as their treasurer.

(Source: *The Chronicle of Higher Education*, 12/8/95)

(Continued on Pg. 5)

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Campus Watch

Congressional Supporters Line-Up To Sponsor "Open Campus Police Logs Act"

-by Donald Baldwin

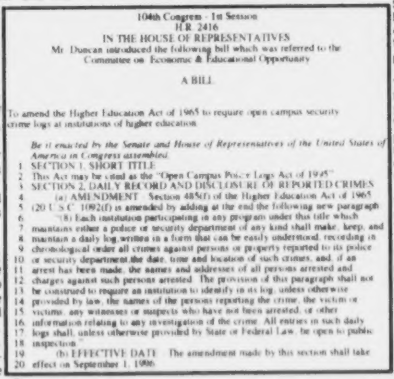
Some twenty plus members of the U S House of Representatives have co-sponsored Security On Campus, Inc 's "Open Campus Police Logs Act of 1995" (H R 2416), introduced last September by Rep John J Duncan, Jr (R-TN) A coalition of support from the Student Press Law Center and the Society of Professional Journalists have joined with S O C to pursue enactment of the legislation

The bill would "amend the Higher Education Act of 1965 to require open campus security crime logs at institutions of higher education " The bill is currently pending in the House Economic and Educational Opportunities Committee

Rep William F Goodling (R-PA), Chairman of the committee, has agreed to work with S O C and the coalition in getting the bill enacted, but has not scheduled any hearings Sen Nancy Kassebaum (R-Kansas), Chair of the Senate Labor and Human Resources Committee, met with S O C 's Washington Representative Donald Baldwin, Mark Goodman of the Student Press Law Center, Bob Lystad and Caroline Carlson of the Society of Professional Journalists While Senator Kassebaum did not agree to hold hearings on the bill, she expressed an interest in having it presented as a possible amendment to an appropriate bill coming before her committee She explained that the remainder of the legislative session this year did not allow sufficient time for a separate hearing on the legislation

Sen Bill Frist (R-TN), also a member of the Labor and Human Resources Committee, has stated his interest in the bill His key education legislative assistant told the coalition that the Senator would be interested in hearing from our supporters He will then be in a position to offer his leadership in the Senate and push for passage of the legislation in the United States Senate

The coalition working with S O C on the enactment of the "Open Campus Police Logs Act of 1995" includes the Society of Professional Journalists' complete task force members the American Society of Newspaper Editors, AP Managing Editors Association, Society of Collegiate Journalists, Associated Collegiate Press, and 11 other press and media national associations



104th Congress - 1st Session
H.R. 2416
IN THE HOUSE OF REPRESENTATIVES
Mr Duncan introduced the following bill which was referred to the
Committee on Economic & Educational Opportunity

A BILL

To amend the Higher Education Act of 1965 to require open campus security crime logs at institutions of higher education

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled

SECTION 1. SHORT TITLE

This Act may be cited as the "Open Campus Police Logs Act of 1995"

SECTION 2. DAILY RECORD AND DISCLOSURE OF REPORTED CRIMES

(a) AMENDMENT Section 485(f) of the Higher Education Act of 1965 (20 U.S.C. 1092(f)) is amended by adding at the end the following new paragraph

"(8) Each institution participating in any program under this title which maintains either a police or security department of any kind shall make, keep, and maintain a daily log, written in a form that can be easily understood, recording in chronological order all crimes against persons or property reported to its police or security department, the date, time and location of such crimes, and, if an arrest has been made, the names and addresses of all persons arrested and charges against such persons arrested The provision of this paragraph shall not be construed to require an institution to identify in its log, unless otherwise provided by law, the names of the persons reporting the crime, the victim or victims, any witnesses or suspects who have not been arrested, or other information relating to any investigation of the crime All entries in such daily logs shall, unless otherwise provided by State or Federal Law, be open to public inspection "

(b) EFFECTIVE DATE The amendment made by this section shall take effect on September 1, 1996

Connie and Howard Clery, founders of Security On Campus, Inc have urged their members and supporters to write in support of this legislation to the Chairs of both the House and Senate committees responsible for the bill and also to the key supporters of this legislation in each house Each of their names and addresses follow

The Honorable William F Goodling,
Chairman
House Economic & Educational
Opportunities Committee
2181 Rayburn House Office Building
Washington, DC 20515
phone (202) 225-5836

The Honorable Nancy Kassebaum, Chair
Senate Labor & Human
Resources Committee
428 Dirksen Senate Office Bldg
Washington, DC 20510
phone (202) 224-4774

The Honorable Bill Frist
United States Senate
565 Dirksen Senate Office Bldg
Washington, DC 20510
phone (202) 224-3344
fax (202) 228-1264
e-mail
senator_frist@frist senate gov

The Honorable John J
Duncan, Jr
U S House of Representatives
2400 Rayburn House Office Blg
Washington, DC 20515
phone (202) 225-5435
fax (202) 225-6440

H.R. 2416 Co-Sponsors:

Rep James Greenwood (R-PA)
Rep Jim Ramstad (R-MN)
Rep Mark Foley (R-FL)
Rep Susan Molinari (R-NY)
Rep Jon Fox (R-PA)
Rep William Lipinsky (D-IL)
Rep Van Hilleary (R-TN)
Rep Sue Myrick (R-NC)
Rep Paul McHale (D-PA)
Rep Bill McCollum (R-FL)
Rep Joseph Kennedy, II (D-MA)
Rep Zach Wamp (R-TN)
Rep E Clay Shaw, Jr (R-FL)
Rep Bill Martini (R-NJ)
Rep Alcee Hastings (D-FL)
Rep Robert Matsui (D-CA)
Rep Marty Meehan (D-MA)
Rep Henry Waxman (D-CA)
Rep Curt Weldon (R-PA)
Rep Harry Johnston, II (D-FL)
Rep Marge Roukema (R-NJ)
Rep Edward J Markey (D-MA)
Rep Charles H Taylor (R-NC)
Rep Dave Weldon (R-FL)

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Campus Watch

Legislative News

☞ Federal - Open Campus Police Logs

Known as the "Open Campus Police Logs Act of 1995", H.R. 2416, this legislation is designed to improve campus safety by providing real-time information about campus crime to the student body, as well as to the extended campus community. A summary of this legislation's purpose is summarized as follows:

1. Students must be alerted to current campus crime incidents so that they can take appropriate precautionary actions. Currently, most students rely on hearsay and rumor when someone is raped in their dormitory, or a rash of thefts have occurred. College and University campuses should not be sovereign domains that suppress vital safety information from the campus community. Imagine the 1st Amendment scandal that would be created if your home-town police station refused to open its arrests logs to the public. Campus residents have a Right-To-Know when their safety is in jeopardy.

2. Open Campus Police Logs will provide a critical check on the veracity of crime statistics submitted to the Department of Education as required by the Campus Security Act of 1990, student-editors and campus law clubs will become empowered to track campus crime reporting and verify the annual crime statistics submitted by their institutions. Otherwise, the Campus Security Act of 1990 does not have an effective system of verification and enforcement - the Dept. of Education recently conceded to S.O.C. that it has not verified any of the annual statistics submitted by individual colleges and universities.

3. No Additional Admin. Costs: the information exists but it has typically been restricted as "confidential" by college and university administrators.

4. Precedence. Seven (7) state legislatures have wisely enacted Open Campus Police Logs to improve campus safety and to safeguard the rights of the campus community.

This is non-partisan, common sense legislation that will save lives and spare trauma at our nation's colleges and universities. **We hope that you will write your legislators in support of H.R. 2416.**

(Source: Security On Campus Inc. files)

* For more information on legislation, please contact S. Daniel Carter at **sdcarter@online.knoxnews.com**

☞ Illinois Anti Hazing Law (update)

On August 11, Governor Edgar signed into law legislation which increases the penalties for student hazing. The new law makes hazing that results in death or bodily harm a felony crime.

"There is absolutely no place for hazing in today's society," Edgar said. "Students who wish to join fraternities, sororities or other student organizations should not be subjected to ridicule or activities that can cause great injury and even death."

House Bill 113, introduced after the death of Western Illinois University student Nicholas Haben (1990), defines hazing as requiring a student to perform an act in order to be admitted into a school-associated group if the act is not sanctioned by the school and it results in bodily harm to any person.

Hazing is a Class A misdemeanor under the new act. Hazing that results in death or great bodily harm is a Class 4 felony, punishable by up to three years in prison.

Sponsors of the bill were state Reps. Tom Cross (R-Oswego), Jay Hofman (D-Collinsville), Richard Myers (R-Colchester), Mike Bost (R-Murphysboro) and Rick Winkel (R-Champaign) and Sen. Carl Hawkinson (R-Galesburg).
The new law went into effect on January 1, 1996.

* * *

Fraternity Row

(Continued From Pg. 3)

☞ University of Pennsylvania

The Phi Gamma Delta fraternity (FIJI) and several fraternity brothers are facing charges stemming from an incident in early February where a guest at one of their parties was assaulted. The victim, Robert Rogers, was confronted by a group of fraternity members when he and a friend attempted to leave the party at the Locust Walk house. "They surrounded me and asked me if I had a problem," he said. "When I said 'no', one of them hit me in the back of the head with a full beer can. As soon as the first can hit me, the rest of the group jumped in."
Rogers reported the incident to University Police who were initially denied entrance to the party, when they got in the victim identified four of the assailants. Police closed the party down after they were hit with beer cans thrown from the upper levels of the house.

(Source: *The Daily Pennsylvanian* 2/14/96)

☞ University of Delaware

The national office of the Sigma Kappa sorority has been revoked until January 1, 1997. The UD chapter and a former male student are under investigation related to sexual assault charges - a female student alleges that she was forced to have sex during the spring rush in February 1994. Two male students have been charged by the campus judicial system with hazing.

(Source: *The News Journal* 11/20/95)

☞ University of California-Davis

Pi Kappa Phi has been suspended for hazing charges, as well as rape and assault charges made against one of their members. Campus and local Police discovered photos of nude pledges smeared with paint and food when they searched the fraternity. Robert Lugo pleaded not guilty to the rape and assault charges.

(Source: *The Chronicle of Higher Education* [illegible])

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Campus Watch

NCAA's
"MOST WANTED"
1995/1996

-by Ben Clery

Win At Any Cost has drawn many schools down a treacherous path. It seems that no felony is serious enough to cause athletic departments to elevate recruiting requirements or to enforce a basic code of conduct.

During the 1980s, Colorado State campuses had so many criminal incidents involving athletes that campus police used the football program as a mug book for victims.

Last year, Sports Illustrated published a damning article about the University of Miami's football team and urged President Foote to terminate the entire program. The author cited a broad gamut of felonies that entailed the arrest of 1 out-of-every 7 scholarship players. In fact, the FBI referred to 57 players implicated in a financial aid scandal as "perhaps the largest centralized fraud upon the Pell Grant program ever committed" - the asst. academic coordinator was sentenced to three years in prison.

This year, several other schools have gained criminal notoriety due to the number and severity of felonies committed by their athletes. After several arrests of Nebraska football players, Coach Osborne conceded "To characterize this as being an out-of-control situation, maybe it is. You guys be the judge. I don't know."

A comprehensive 1995 study by the *Los Angeles Times* revealed that over 60% of 345 police arrests involved college athletes; the remainder involved professional athletes.

And a 1995 study of sexual assault cases by researchers at Northeastern and the University of Massachusetts determined that male athletes were involved in a disproportionate number of crimes. From a sample of 30 universities over an 18-month period, male athletes who comprised 3.3% of the student body were involved in 19% of the sexual assaults reported on campus.

☞ Arizona State University (basketball)

Recruits Tommie Prince, Rico Harris and George Gervin were arrested in March for the rape and sexual assault of two female freshmen. The victims said the athletes also threatened them with a gun. Police reports indicate that "one of the victims had consensual sex with one of the recruits, but she objected when a second attempted to take part and then was forced to perform a sex act on one of the men, who wouldn't allow her to leave." A fourth basketball player, Okeme Oziwo, was questioned but not arrested.
(Source Assoc. Press 3/6/96)

☞ Clemson Univ.

Four freshman football players were arrested by campus police Feb. 20 for raping and sexually assaulting an 18-year-old female student in a dormitory; police said the football players forcibly restrained the girl for about two hours.
(Source Assoc. Press 2/20/96)

Between the arrest and conviction is where the institution, sport and the legal system have this unholy alliance. This is where the sports safety net comes into play...those attorneys and institutional safeguards that are allotted to athletes that the average student doesn't have.

This applies especially in sexual assault cases. The defense lawyers will make it look like a woman's background is so checkered that she may have given consent (aka: "groupie defense"). The victim has to be Mother Theresa to get a conviction!

☞ U. of Tennessee

Following an athletic dept. telephone fraud scam that cost the school $25,000 and implicated dozens of athletes, several football players have been arrested on various charges.

The most hideous case involves roommates Nilo Silvan (capt.) and receiver Joey Kent. Reports indicated that Kent wanted to "share" his 17 year old girlfriend with Silvan. The victim testified that after fornicating with Kent, he requested that she have sex with Silvan and left the room. Silvan immediately entered the room and proceeded to rape and sodomize the girl. A grand jury recently acquitted Silvan because of the girl's questionable character. Kent was not charged or disciplined.

In February, football players Greg Kyler and Anthony Hampton were arrested by police for beating a U.T. trainer.
(Source Knoxville News Sentinel 7/15/95, 9/21/95)

☞ University of Nebraska (football)

Lawrence Phillips broke into a teammate's apartment Sept. 10 and assaulted a former girlfriend before dragging her down three flights of stairs. On June 10, Phillips had been arrested for disturbing the peace at an off campus party.
(Source Los Angeles Times 12/27/95)

☞ U. Iowa

Football player Marcus Montgomery was arrested and charged Dec. 4 with assaulting an ex-girlfriend, allegedly punching her several times, dragging her down a flight of stairs and kicking her several times.
(Source Los Angeles Times 12/27/95)

☞ Arizona State University (football)

Jeff Nadeau was charged Nov. 12 with kidnapping and aggravated assault on his girlfriend.
(Source Los Angeles Times 12/27/95)

☞ University of Missouri (football)

Rahsetnu Jenkins was arrested and charged July 13 with the rape of a 24 year old woman. He pleaded guilty to first-degree sexual misconduct.
(Source Los Angeles Times 12/27/95)

☞ University of Nebraska (football)

Tyron Williams is suspected of firing a gun at the car of New York Jet safety Kevin Porter Oct 31. Williams faces trial on weapons charges.
(Source Los Angeles Times 12/27/95)

☞ Idaho State (football)

Brian Bethel, Derrick Carter, Sam Carter, Ike Johnson, and Thomas Washington were all implicated with

Campus Watch

the statutory rape of 14-year-old girls between Feb & Apr '95 All five pleaded guilty to misdemeanor battery and received a year's probation, a $350 fine and 10 days community service after the girls refused to testify
(Source: Los Angeles Times 12/27/95)

☞ University of Massachusetts

Basketball players Andre Burks & Mike Williams were arrested and tried for larceny and forgery charges related to passing a bad $4,000 to another student In March, Burks was also accused of slamming his girlfriend's head into a wall
(Source: Los Angeles Times 12/27/95)

☞ University of Arizona (football)

Shawn Parnell, Brandon Sanders, Derrick Stewart and Gary Taylor were indicted in August on various charges related to aggravated assault, using a deadly weapon and causing serious injury Stewart had been a shooting suspect in a separate Tucson crime (Source: Los Angeles Times 12/27/95)

☞ Boise State U.

Tony Hilde was charged for two separate crimes First, he was arrested and charged in Aug for battery on a police officer, assault against two officers & resisting arrest He was also charged in Aug for obstruction of justice after he lied to police about his involvement in a head-on traffic accident
(Source: Los Angeles Times 12/27/95)

Idaho's state board of education has acted decisively by adopting strict guidelines regarding criminal activity involving athletes. The policy's cornerstone is a disclosure statement, requiring athletes to acknowledge all past criminal behavior before competing. Coaches are no longer allowed to recruit athletes who have committed felonies or, in cases of juvenile proceedings, acts that would have constituted a felony.

Furthermore, any student convicted of a felony while attending a state school will not be allowed to participate again in intercollegiate athletics.

☞ University of Tennessee (football)

Travis Cozart was indicted with 16 other people in Aug for selling cocaine and crack to undercover agents Cozart had been arrested in July on assault charges
(Source: Los Angeles Times 12/27/95)

☞ University of Nebraska (football)

Riley Washington was charged with attempted second degree murder in Aug, related to a convenience store shooting He is awaiting trial
(Source: Los Angeles Times 12/27/95)

☞ Bemidji State University (hockey)

Aaron Novak was charged in July with felony sexual assault related to the rape of a Duluth student
(Source: Los Angeles Times 12/27/95)

☞ Southwest Missouri State

Keith Gatlin, Luther Lewis, Garrick McCuller, Andrew Murray, and Michael Whitley were indicted in April on federal cocaine charges Whitley admitted setting up cocaine buys and collecting money
(Source: Los Angeles Times 12/27/95)

☞ Arkansas State University (football)

DeAnthony Hall was charged with attempted rape and pleaded guilty to a reduced charge of public sexual misconduct in April
(Source: Los Angeles Times 12/27/95)

☞ Seton Hall Univ., University of Utah, George Washington

The athletic depts and administrations of all three universities tried to quietly recruit convicted felon Richie Parker who raped and sodomized a 16-year-old high school classmate Due to campus furor caused by Parker's recruitment, all three schools had to withdraw their offers
(Source: Los Angeles Times 12/27/95)

☞ Virginia Tech (football)

A rape victim has filed suit against Tony Morrison, James Crawford, co-conspirators and the University for a total of $8.5 million, the estimated receipts from the New Year's Eve bowl game Morrison & Crawford allegedly lured the victim and a friend into their room, and after Crawford left with the other girl, Morrison raped the victim Then Crawford returned and both players sexually assaulted her Morrison told her "You better not have any disease"
(Source: New York Times 2/18/96)

Adding insult to injury, too many schools try to quietly "handle" felony crimes behind the closed doors of their "disciplinary systems" and ultimately violate victims' rights secured by the Equal Protection Clause of the U.S Constitution

Part of the problem is the abdication of a school's admissions requirements and disciplinary authority to the athletic department. Recruiting coaches are typically more interested in a fierce athlete who can win games than a less aggressive athlete who has the appropriate academic credentials and good character - both on and off the playing field

As evidenced by the efforts to quietly recruit Richie Parker, athletic departments rarely conduct criminal background searches on questionable athletes, or choose to ignore the liability of recruiting an athlete whose criminal record is known Nebraska's Coach Osborne now faces explosive allegations that he and his staff have obstructed justice related to their players criminal cases

It's no secret that many players merely go through the motions of attending classes They are typically spoon-fed tests in advance and take "incomplete" grades with no intention of satisfying course requirements Iowa State's football coach, Jim Walden, estimated that only 20% of the football players go to college for an education College is merely a "holding pen" for most athletes reaching for the pros Walden estimates that 75% of college football players who are drafted by the NFL virtually quit school for their entire final year, sticking around only to play their sport, get free meals and housing, and use the weight room There are no eligibility requirements for a player's final season other than the stipulation that the athlete be enrolled at the school for which he/she plays

The NFL and the NBA should start their own farm system for athletes who don't qualify for college admissions or who fail college academic requirements And college administrators must stop adjudicating felony crimes that belong in U.S Criminal Courts

* * *

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Campus Watch

Failure to Enforce State Laws

-by Jennifer M.E. Katsoff

Illegal underage drinking and drug use continue to be ignored by many college and university administrations. Yet alcohol plays a central role in the majority of sexual violence on campus. Colleges have a legal duty to police their grounds and enforce state alcohol and drug laws. Negligence of this duty can only lead to more assaults on campus, as well as law suits against the institution.

In a three-year study of college campuses, psychologist Mary Koss found that one in every four female college students surveyed had experienced rape or attempted rape,[1] and that 84 percent of the assaults were committed by a perpetrator known to the victim.[2] She also noted that 75 percent of the men and 55 percent of the women reported drinking or taking drugs prior to an attack.[3] Her findings are not isolated. In a 1985 study of fifty college gang rapes, researchers found that every one of the cases involved alcohol.[4]

Women do not believe that they are declaring themselves "available" when they drink. In fact, studies have found the opposite, that alcohol negatively influences female sexuality. Yet the myth of drunken female seduction continues to thrive in college populations.

There does seem to be a strong correlation between an individual's consumption of alcohol and their opinions about specific behavioral effects of that consumption.[5] Researchers have conducted a number of "balanced placebo" studies in order to determine the pharmacological and placebo effects of alcohol.[6] These studies found that people experienced "drunken" side effects when told that they were drinking an alcoholic beverage, even when it was non-alcoholic. Thus, expectancy beliefs about alcohol, such as supposed physical arousal, loosening of women's sexual inhibitions, and a man's feeling of power and sexual dominance, are largely imagined.[7] These imagined behavioral affects, used in incidents of sexual assault, could be substantially reduced by enforcing state alcohol and drug laws.

Society also imposes a double standard about the effects of alcohol on men and women. Women generally are seen as more sexually active when they drink,[8] while men are seen as excused from their obnoxious conduct in the same setting. However, women **do not** believe that they are declaring themselves "available" when they drink.[9] In fact, studies have found the opposite, that alcohol negatively influences female sexuality.[10] Yet the myth of drunken female seduction continues to thrive in college populations.

Alternately, men have been found to deliberately use intoxication as a weapon for sexual aggression. A 1986 study found that 75 percent of college men reported using alcohol or drugs in an attempt to obtain sex from an unwilling woman.[11] A 1989 study similarly found that men used alcohol as a "major tool used to gain mastery over women."[12]

Further, alcohol has become an integral part of campus social life, where nearly 95 percent of students drink.[13] One reason women drink is to be included socially.

College administrators who ignore illegal alcohol and drug consumption on campus perpetuate a vicious cycle of crime. They not only break the law by allowing underage drinking and illegal drug use to occur, but they also create a breeding ground of violence and assault.

Jennifer M.E. Katsoff, a member of the Board of Directors of Security On Campus, Inc., is a second year law student at Brooklyn Law School. She founded Concerning Women, a national network which organises college women, and was nominated for Federal Recognition by the Department of Justice in 1992. In 1995, she was one of two recipients of the Jeanne Clery National Safe Campus Award. She is currently writing a book, Removing the Veil, about sexual violence on college campuses.

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[1] Robin Warshaw, I Never Called It Rape: The Ms. Report on Recognizing, Fighting, and Surveying Date and Acquaintance Rape 2, 11 (1988).

[2] Id. at 11.

[3] Id. at 44.

[4] Julie K. Ehrhart & Bernice R. Sandler, Center for Women Policy Studies, Campus Gang Rape: Party Games? 7 (1992).

[5] Mark S. Goldman & Laurie Roehrich, Alcohol, Expectations and Sexuality, 15 Alcohol Health & Res. World 126, 127 (1991).

[6] Id.

[7] Barbara Critchlow, The Powers of John Barleycorn: Beliefs About the Effects of Alcohol on Social Behavior, 41 Am. Psychologist 751, 754-55 (1986).

[8] S. Marie Harvey & Linda J. Beckman, Alcohol Consumption, Female Sexual Behavior, and Contraception Use, 47 J Stud Alcohol 327 (1986).

[9] Albert D. Klassen & Sharon C. Wilsnack, Sexual Experience and Drinking Among Women in a U.S. National Survey, 15 Archives of Sexual Behav. 363, 375-76 (1986).

[10] Id. at 330.

[11] Donald L. Mosher & Ronald D. Anderson, Macho Personality, Sexual Aggression, and Reactions to Guided Imagery of Realistic Rape, 20 J Res. Personality 77, 83-84 (1986).

[12] Patricia Yancey Martin & Robert A. Hummer, Fraternities and Rape on Campus, 3 Gender & Soc'y 457, 464 (1989).

[13] Lloyd D. Johnson, Patrick M. O'Malley & Jerald G. Bachman, Drug Use, Drinking, and Smoking: National Survey Results from High School, College, and Young Adults Populations, 267 tbl. 40 (1989).

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Campus Watch

Parole Hearing of a Campus Murderer

-by Thomas Baer

Five parole hearings since Underwood's 1989 conviction for second degree murder has shaken our confidence in the "Criminal Justice System". Five parole hearings since his conviction only 6 years ago!

The fifth parole hearing for the convicted murderer of Thomas Holman Baer was held at the Morgan County Co. Tennessee Work Camp, in October 1995. This fifth hearing was held because the recording/official record of the fourth hearing (April 1995) was defective. Therefore, the Parole Board gave our son's murderer another chance.

Thomas Holman Baer, was stabbed to death in his Phi Kappa Tau fraternity house at the University of Tennessee on 20-August-1988. A drunken Jeffrey Underwood stabbed Tom as he attempted to "crash" the Phi Kappa Tau party for a second time. Earlier, Underwood was told to leave the party because he was loud and abusive to some of the young ladies at the party. After a scuffle with several fraternity brothers, Underwood fled across the street to a local bar, but later returned and stabbed Tom Baer.

Jeffrey Underwood, represented by two attorneys, repeated the same false account of the murder that he has persisted in telling at every opportunity. His version differs substantially from the testimony given at his trial in 1989. He continued to blame everyone else for Tommy's death, the university, the fraternity, Tommy, etc. He even quoted from his own testimony given during the sentencing hearing following the trial, claiming that it was information given at the trial! The implication being that the jury had heard his story and as a result, only convicted him of second degree murder, not the first degree murder for which he was charged. In fact, he did not testify at the trial.

Approximately 15 citizens appeared with the Baer family at the hearing to oppose Underwood's release. After presentations from: convicted murderer Jeffrey Underwood; the Baer family; citizens opposed to Underwood's parole; and members of Underwood's family, the two parole board members attending the hearing stated that they would vote against immediate parole, but they would recommend to the rest of the board that Underwood again become eligible in October 1996 (6th Hearing!).

The Parole Board voted as follows: (4) to deny parole, (2) to grant parole, and (1) abstention. It should be noted that if three members of the Board voted for release, Underwood would have been set free. In Tennessee, only three favorable votes by Parole Board members is required for release!

The Baer family wishes to thank everyone who wrote letters to the Parole Board. Your letters did make a difference. Both the Board and the defense attorneys noted the volume of your letters and the national scope of support for denying parole.

Thomas and Margaret Baer are active in victims' rights and crime prevention efforts. They serve on the Board of the East Tennessee Victims' Rights Task Force and the Board of Security On Campus, Inc.

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Campus Spotlight

(Continued From pg. 2)

☞ Regis College

Babson College student Michael R. Nannis (20) was charged with aggravated sexual assault after allegedly "date raping" an 18-year-old Regis College student. In an unrelated incident, Nannis was also being sought on assault charges for allegedly breaking a male victim's eye socket on the Babson campus.
(Source: *Wayland/Weston Town Crier*, 11/16/95)

☞ University of Delaware

A series of violent crimes occurred last fall on the University of Delaware campus.

>September 24th: Derrick A. Williams was stabbed while leaving a dance around 2 am. Police said Williams and his assailant had argued about one of their cars blocking the other's path. Robert D. Thomas, Jr. was arrested for the assault.

>October 14th: an intruder entered three unlocked residence rooms in the morning, molesting one woman and fondling two others. The 17-year-old assailant was apprehended and arrested.

>November : at about 1:20 a.m. on a Saturday morning, a 20-year-old UD student was stabbed in the upper arm while walking alone on campus. No arrests were reported.
(Source: *The News Journal*, 11/15/95)

☞ University of Illinois at Urbana

Maria Pia Gratton, a university programmer, was found murdered and sexually assaulted on campus in November.
(Source: *The Chronicle of Higher Education*, 11/10/95)

☞ University of Utah

A doctoral student was arrested for threatening to kill professors and administrators. Melissa Young, a business student, had been put on a year long leave of absence after she was suspected of making threatening phone calls last spring.
(Source: *The Chronicle of Higher Education*, 12/15/95)

(Continued On Pg. 10)

Campus Watch

Campus Spotlight

(Continued From pg. 9)

☞ Texas Christian University

Two roommates were arrested in October after a woman told police that she had been raped by one student, as the other student slept nearby. Two weeks later, the other roommate raped her. Sophomores James E. Kiehle and Judd Payne, were removed from campus pending a disciplinary review of the charges.

☞ Beaver College

A 20 year old Beaver student was abducted and raped by two men who forced her into their car around 6 p.m. on February 20, 1996 as she was leaving a dormitory. Philadelphia Police are investigating.
(Source: The Philadelphia Inquirer 2/24/96)

☞ Salem State College

Student Trustee Carlos Alves was arrested by Salem State Police for allegedly raping a female student on September 29, 1995.

Following the arrest, the campus newspaper was unable to obtain information on the disposition of campus disciplinary proceedings, as well as whether the accused would remain on campus as a resident director. A college administrator said the information was "confidential" and referenced the Buckley Amendment.
(Source: The Log October November 1995)

☞ University of Delaware

Freshman David Stevenson Brown was charged Nov. 13 for the shooting murder of a Macy's security executive. Brown allegedly shot Kristopher Heath because his former Macy employer would testify against him regarding a $4,500 credit card fraud.
(Source: The Review/Univ. of De. 2/16/96)

* * *

Legal Notes

☞ Brown University

Football team members Joseph Karcutskie and Jon Bourbeau pleaded "no contest" to assault charges in the Providence District Court. Both players were arrested for an incident at the Spats pub near campus last September.

The University Disciplinary Council (UDC) had found both students not guilty in November on all counts of violating campus conduct codes for the same incident.

The apparent discrepancy in judgments has caused a debate on campus as to whether or not the UDC's policies are appropriate to handle felony crimes. The campus paper had to reference public records of the criminal court proceedings to obtain the defendants' names.
(Source: The Brown Daily Herald)

☞ University of Pennsylvania

Gregory Pennington and Anthony Archer, both 17, were found not guilty in relation to the August 1994 robbery and murder of mathematics graduate student Al-Moez Alimohamed.

Ollie "Homicide" Taylor, also 17, admitted in court that he had shot and killed Alimohamed. Taylor accepted a plea bargain and testified against one of the other defendants in exchange for a recommended sentence of life, rather than the death penalty. Alimohamed's fellow graduate students expressed dismay at the acquittals.
(Source: The Philadelphia Inquirer 1/30/96; The Daily Pennsylvanian 3/14/96)

☞ U.S. Naval Academy

Midshipman Jason Anthony Harloff, 22, pleaded guilty to possession, conspiracy, use and transfer of LSD. He was sentenced to 42 months in jail and dismissed from the Navy. Harloff was the first of 24 midshipmen arrested on drug charges to face trial.
(Source: The Philadelphia Inquirer 1/18/96)

☞ SUNY-Albany

Ralph Tortorici, 27, who held a college class hostage at gunpoint (Dec. '94) while ranting about a microchip implanted in his brain, was acquitted of three counts of attempted murder. Instead, he was found guilty on (2) charges of assault, (4) counts of kidnapping, gun charges and reckless endangerment.

Jason McEnaney, one of the students who was shot, has filed a $20 million lawsuit against the school - claiming they did not sufficiently protect him.

☞ Drexel University

David Dickson, Jr. was convicted of murdering junior year student Deborah L. Wilson in 1984. According to court testimony, Dickson was a security guard at Drexel and was working in the same lab where Wilson was studying on the night she was murdered.
(Source: The Chronicle of Higher Education 12/15/95)

☞ Eastern Washington University

Russell C. Boggs, an associate professor of geology, was suspended from his position in July when administrative officials discovered that he had received child pornography on his state-owned computer. Boggs resigned in August and was indicted in February on 122 criminal charges in connection with more than 4,000 pornographic images discovered. Boggs previously claimed that he was assisting his wife with her research into erotic literature.
(Source: The Chronicle of Higher Education 2/2/96)

☞ University of Arizona

Arizona's state Court of Appeals ruled last fall that a national fraternity may be liable in a wrongful death case connected to underage drinking at a local campus chapter. A 20 year old intoxicated UA Delta Tau Delta fraternity pledge reportedly caused the 1988 automobile accident which seriously injured Ruben Hernandez and subsequently caused his death in 1990.

The Court found that the "national fraternity, having sponsored what amounts to a group of local drinking clubs, can not disclaim responsibility for the risks of what it has sponsored." Although the plaintiffs settled out of court with the local chapter, further legal action is expected against the national office.
(Source: Campus Crime, November 1995)

Campus Watch

☞ Missouri - Anti-Hazing

The state Supreme Court upheld an anti-hazing law last fall, rejecting arguments that it was too vague.

Keith Allen's hazing conviction was upheld in the death of Michael Davis, a 24 year old pledge at the Kappa Alpha Psi fraternity. Davis was severely beaten and died from a head injury during February 1994 pledging activities. The Court found that "beating is not a word shrouded in mystery or squirming with ambiguity." Kappa Alpha Psi was also banned from campus by the Southeast Missouri State University where the hazing incident occurred.
(Source: Campus Crime, November 1995)

☞ University of Virginia

UVA officials and sexual assault prevention workers said in January that the University Police Department's report of no rapes on campus last year is "misleading" and that students should continue to take precautions.

The assault prevention workers noted that few sexual assaults are reported to police and that they know of several incidents having taken place in the UVA community during 1995. One official indicated that an "incident at a fraternity house on Rugby Road would be reported to the city police."
(Source: The Cavalier Daily, 1/18/96)

☞ Moorhead State University

An attorney, representing a student who alleges she was sexually assaulted on September 5 by an MSU professor, has given notices to the University, as well as the Minnesota Attorney General's Office.

The claim has generated an investigation into the incident by the Moorhead police department and the University. A crime summary produced by MSU for the month of September makes no reference to the campus sexual assault which was reported in the campus paper.
(Source: The Advocate, 1/18/96)

☞ University of Hawaii

The University settled a $175,000 legal suite with Michelle Gretzinger and promised reforms. Gretzinger's suit accused the University of failing to act on complaints of sexual harassment by a faculty member. The suit further claimed that Ramdas Lamb harassed and sexually assaulted her while she was his student in 1992.

The University took 13 months to act on the complaint; federal guidelines require that action be taken within 80 days. Although a University panel found that unwanted sexual contact had taken place, the December 1993 report was withheld from the victim and her attorney for more than a year. A senior administrator had dismissed the case in April 1994.

☞ Virginia Tech

A former student, Christy Brzonkala, has filed a lawsuit in federal civil court against Virginia Tech and two members of the school's 1995 Sugar Bowl football team. Tony Morrison and James Crawford are accused of raping her in their dorm room in September of 1994. According to the lawsuit, Brzonkala filed charges through the university's judicial system in April 1995 after she saw and recognized Morrison's and Crawford's photos in the Freshman Record. Charges against Crawford were dismissed by the judicial board. Although initially found guilty and suspended for two semesters, Morrison appealed twice and was allowed to return to campus after being placed on "deferred suspension until graduation" by Provost Peggy Meszaros, and required instead to attend a one hour session on "acceptable standards under university student policy."

In addition to $8.3 million in damages, the suit seeks an injunction preventing the school from using internal procedures to prosecute any future cases of sexual assault. Brzonkala's attorney, Eileen Wagner, said she believes "that colleges can handle felonies internally, providing the police handle it first. It's time for experienced people to take over." She also states that a college handling a case such as this can never be impartial. After filing the lawsuit, Deputy Attorney General for the Commonwealth of Virginia, Gary Aronhalt, offered to order a state police investigation into the criminal charges. Ms. Brzonkala now attends George Mason University.
(Source: Collegiate Times, 11/28/95, 1/16/96, 2/9/96)

☞ Moorhead State University

Former Moorhead student, Margaret Jakobson, has filed a complaint with the U.S. Department of Education alleging that MSU has not complied with the *Campus Security Act of 1990*.

In a letter dated October 5, 1995 to the D.O.E., Jakobson claims that MSU

1.) Failed to "follow established definitions of crimes" (ie. FBI Uniform Crime Reporting standards).

2.) Failed to include an off-campus site as required by the law.

3.) Failed to "compile all campus crime and specifically claimed that monthly reports were in compliance with the Act while disclaiming in small print that they "reflect only incidents reported to the campus security department" and did not include incidents reported to any other office or any incidents occurring at the off-campus location which are both required by law to be included. Further the monthly report specifically stated that it was not categorized according to the UCR standards which are also required by law.

4.) Failed to "report campus crime accurately." The amount of crimes reported for specific years varies from year to year in the annual compliance documents.

Jakobson disputes administrative claims that earlier reports were "more inclusive." "The '1994 Campus Security Report' stated there were '0' Sexual Assaults reported, and, likewise, in 1993 there were '0'.

Jakobson is considering filing a "Writ of Mandamus" in Federal District court to force compliance.

* * *

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-Please Help-

Since 1987, Security On Campus, Inc. has been the driving force behind (3) Federal Laws and (22) State Laws that promote student safety and protect student-victims' rights. Our mission is to pursue the truth about campus crime and we strive to restore a safe learning environment for students.

The perception that college and university campuses are safe educational havens for students has been destroyed by scores of homicides, and thousands of rapes, assaults and robberies each year. Unfortunately, many college and university administrators prefer to withhold campus crime information as "confidential" - a contrived interpretation of the Buckley Amendment.

S.O.C. was founded in memory of Jeanne Ann Clery and the thousands of campus crime victims, so that other students and parents will be spared victimization.

* * *

We need your financial support to continue working for safer campuses and helping student-victims. Please send your contribution today (envelope enclosed).

Connie & Howard Clery
Security On Campus, Inc.
215 W. Church Road, Suite 200
King of Prussia, Pa. 19406-3207

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Chairman McKEON. Thank you.

We have a vote, and with your indulgence, we will take a short recess, and we will run and vote and come right back. That gives you just a little bit longer to worry about it, Christy.

[Recess.]

Chairman McKEON. We will go ahead and get started again.

Christy.

STATEMENT OF CHRISTY BRZONKALA, STUDENT, FAIRFAX, VIRGINIA

Ms. BRZONKALA. My name is Christy Brzonkala. I am 19 years old, and I have lived in Fairfax, Virginia, most of my life. I am a student at George Mason University now. I am here today to tell you a painful story of what happened to me before the end of my first month as a freshman at Virginia Polytechnic Institute and State University, a large State supported school in Blacksburg, Virginia.

What happened to me was bad enough, but the secrecy Virginia Tech used against me when I complained made it a nightmare.

In mid-September 1994, I was raped by two football players in my own dorm. I had met them for the first time just 15 minutes before they assaulted me. You can read the details in my written testimony.

What makes me maddest of all is that Virginia Tech could keep it secret. Unfortunately not all universities are as concerned with their students as we have heard here. Otherwise their students' right to know about the crimes committed would not be such an issue.

Virginia Tech tried to keep it a secret just like they kept the real number of campus sexual assaults secret even though the Students' Right to Know Act requires them to report these crimes. For 1994, Virginia Tech reported two rapes for the entire campus. On a single night in 1994, I was raped three times. I doubt that Virginia Tech really knows how many of its athletes have criminal histories even before they are recruited.

The rest of us come to college believing we are safe. We are anxious to meet new people and make new friends. How can we hope to protect ourselves when the school keeps secret its own police log or, as Virginia Tech does, works out ways to divert serious crimes away from police incident reports.

Colleges and universities have so much power over the lives of students. The schools have too many conflicts of interest to take the law into their own hands when it comes to serious crimes. When schools deal with serious crime, they should be forced to do it out in the open just like in the courts. Maybe that football player who said he was there and didn't see anything bad might have thought twice about saying that if he knew it would become public and good people might come forward to say he was someplace else at that same time.

If I had known there were dozens of sexual assaults at Virginia Tech every year or that Virginia Tech football players have a history of assaulting people, I would have been a lot less trusting with those students I had only just met.

I hope that you will recommend that schools must make their crime reports public so that students like me will have a fair chance to protect themselves.

Thank you.

[The prepared statement of Ms. Brzonkala follows:]

HOUSE OF REPRESENTATIVES
OF THE UNITED STATES CONGRESS
104th Congress, First Session

Committee on Economic & Educational Opportunity

Hearing on H.R. 2416
The Open Campus Police Logs Act of 1995

June 6, 1996

TESTIMONY OF CHRISTY BRZONKALA

My name is CHRISTY BRZONKALA. I am nineteen years old and I have lived in Fairfax, Virginia most of my life. I am a student at George Mason University now. I am here today to tell you a painful story of what happened to me before the end of my first month as a freshman at Virginia Polytechnic Institute and State University, also called Virginia Tech, a large state-supported school in Blacksburg, Virginia. What happened to me was bad enough but the secrecy Virginia Tech used against me when I complained made it a nightmare.

In mid-September, 1994, I was raped by two football players in my own dormitory. I had met them for the first time just 15 minutes before they attacked me. At first all I wanted to do was forget about it. I stopped going to class. I cut my hair. I slept all day and never went out. Things got worse. I attempted suicide the first week of October. It wasn't a very good attempt. I told my roommate about the rapes but I blamed myself until February.

Testimony of Christy Brzonkala

I should have gone to the police but I knew I had waited too long. I knew it would just be my word against theirs. After talking to the Women's Center counselor, I agreed to file charges under the school's Sexual Assault Policy. I was promised a fair chance to get the football players punished.

We had a hearing in May. The football players brought another team mate who said he saw me in the room and that one of two accused players was with him the whole time. I never saw the third player in the room. I felt like everything I said in the hearing meant nothing. The hearing panel let one player go. But the player who admitted that he did have sexual intercourse with me was found guilty and suspended for a year. He appealed right away and the punishment was upheld. That should have been the end of it. I was prepared to accept only one player being punished because at least that showed Virginia Tech believed me.

The Virginia Tech Student Handbook said the decision of the appeals officer was final. I went home to get myself into group counseling and to prepare for my return to Virginia Tech in August to do my freshman year all over again.

Then, in July, the Sexual Assault coordinator and the dean who made the final appeal decision showed up at my house. They said the school had mistakenly used the wrong policy for the hearing. They said the suspended football player was threatening to sue the school. They said the school was not going to court over this. They said that I had to choose: Erase the hearing as if I never brought the charges and let the player back into school as if nothing happened, or do the hearing over again. These women told me that the school believed my story and the second hearing was just a technicality. I had less than two weeks to decide and to get ready. During the whole time since the first hearing, Virginia Tech was making it easy for the suspended player to get his case together a second time. During those two short weeks I had to prepare, Virginia Tech made it as difficult as possible for me to get ready. In my Title IX lawsuit against Virginia Tech, I described the deliberate road-blocks the school put in my way that gave advantages to the football player while making it hard for me.

At the second hearing, the suspended player brought the same team-mate to say again, and in more detail, how he came into the room while I was there and he didn't see anything bad. I was warned that everything was strictly confidential. My father had to hire a lawyer to help me through the second hearing and she was not allowed to say a word during the hearing.

Testimony of Christy Brzonkala

I remember how sick to my stomach I felt after the 3- hour first hearing. I actually threw up during the 7- hour second hearing. But I went through with it. I wasn't doing this just for me, but all the women at Virginia Tech.

I was told the accused player was found guilty again and he was suspended again. I went home thinking it was worth it to do it right and I began planning to return to Virginia Tech for the fall. Without a word to me, Virginia Tech told the sports press just a few days before school was to start that the player's punishment had been "deferred" until after he graduated. He would return to Virginia Tech in the fall on full athletic scholarship to take his place on the varsity football team for the 1995 season. His return would announce to everyone at Virginia Tech who knew anything at all about my charges that Virginia Tech did not believe me--that I had made a false report against a varsity football player.

I knew my personal safety was worthless in Blacksburg. My friend had overheard a team-mate of one accused player talking about how he "should have killed the bitch" -- meaning me. I canceled my plans to return to Virginia Tech. I sat out of school the whole fall semester. Not until I went public with my story in November did I learn the second hearing panel found the player guilty of a reduced charge of "using abusive language." Not until I filed a federal lawsuit at new year's did I learn the excuse to hold the second hearing was a sham and that Virginia Tech's lawyers knew it was a sham because they had just won a case against a student who used the same excuse to challenge a disciplinary hearing.

The federal judge in Roanoke dismissed Virginia Tech last month because he said we did not give enough facts to establish the school was discriminating against me because of my gender. We gave as many facts as we had. Virginia Tech used FERPA (Family Education Right to Privacy Act) to make sure we had very few facts. My lawyer asked for facts under federal discovery rules, under Virginia's Freedom of Information Act and under Virginia's Privacy Protection Act, and we got next to nothing. Finally we had to get a court order just to get copies of the audio-tapes of the hearings. The football player's lawyer got the tapes of the first hearing just for the asking. All of the football player's witnesses in the second hearing had obviously heard the tapes and rehearsed their testimony. Before the second hearing, I asked for the tapes and I was refused because they were not my "educational records." When Virginia Tech slipped up and gave transcripts to the witness who provided the players' "alibi," the school insisted it was okay because the tapes were his educational records.

When we finally got the tapes, the federal judge gave us less than 72 hours to review more than 10 hours of badly recorded testimony with lots of gaps, and then to beef up the Complaint. The federal judge put such a strong protective order on the tapes that my lawyer decided not to let me listen so that no one could say I was violating the protective order when I talked about what I remember happening at those hearings. The federal judge gave the defendants permission to file motions and whole briefs "under seal" because they quoted a line or two from the protected tapes. One of those secret motions was designed to scare me into giving up.

I think Virginia Tech treated me this way because I had the nerve to complain about two of their precious football players. Football is the last all-male major sport. I know those football players got preferential treatment because they are members of a privileged all-male class. I know that I was treated differently because I am a member of the second-class, females.

What makes me maddest of all is that Virginia Tech could do this and keep it secret. Virginia Tech tried to keep it secret just like they keep the real number of campus sexual assaults secret--even though the Students' Right to Know Act requires them to report these crimes. For 1994, Virginia Tech reported two rapes for the entire campus -- on a single night in 1994, I was raped three times.

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Colleges and universities have so much power over the lives of students. The schools have too many conflicts of interest to take the law into their own hands when it comes to serious crime. When schools deal with serious crime, they should be forced to do it out in the open, just like in the courts. Maybe that football player who said he was there and didn't see anything bad might have thought twice about saying that if he knew it would become public and good people might come forward to say he was someplace else at that same time.

If I had known there were dozens of sexual assaults at Virginia Tech every year, or that Virginia Tech football players have a history of assaulting people, I would have been a lot less trusting with fellow students I had only just met.

Testimony of Christy Brzonkala

I hope you will recommend that schools must make their crime reports public so that students like me will have a fair chance to protect themselves.

Thank you.

JONES & GLENN, P.L.C.
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May 17, 1996

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Washington, D.C. 20530

Re: Christy Brzonkala v. Virginia Polytechnic Institute & State University, et al.
Civil Action No. 95-1358-R

Dear Counsel:

Pursuant to Federal Rule of Civil Procedure 11(c)(1)(A), enclosed is a Motion and Memorandum which shall be filed with the Court under seal within 21 days after service of this Motion, unless the Amended Complaint against Cornell

EXHIBIT A
TESTIMONY OF CHRISTY BRZONKALA

Brown is withdrawn.

Very truly yours,

JONES & GLENN, P.L.C.

Jane

Jane S. Glenn

JSG:asf

Enclosures

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

CLERK'S OFFICE U.S. DIST. CT.
AT ROANOKE, VA
FILED
FEB 2 6 1996
MORGAN E. SCOTT, JR., CLERK
By Deputy Clerk

ENTERED
2-26-96

Christy Brzonkala,

Plaintiff

v.

C.A. 95-1358-R

Virginia Polytechnic Institute

and State University, et al.

Defendant

AMENDED CONSENT ORDER

Pursuant to Federal Rules of Civil Procedure 26(a) and 34, and upon Motion of the parties before the Court, to vacate the Consent Order entered in this case on February 23, 1996, which Consent Order required production of all documents for which Defendant Virginia Polytechnic Institute and State University ("Virginia Tech") carries liability under the Family Education Right to Privacy Act, 20 U.S.C. §1232g ("FERPA" and also known as the "Buckley Amendment") including but not limited to audio-tapes and transcripts of internal judicial proceedings during 1995 involving Plaintiff, Defendant Antonio J. Morrison and Defendant James Crawford, and deeming it just and proper that this joint Motion be granted:

It is ADJUDGED and ORDERED that

(1) The Consent Order entered February 23, 1996, is hereby vacated and this Amended Consent Order is entered in lieu thereof.

RECEIV

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Exhibit [illegible]
TESTIMONY OF CHRISTY BRZONKALA

(2) Not later than 5 PM EST on February 26, 1996, Defendant Virginia Tech shall deliver copies of audio tapes described above to the office of Plaintiff's Counsel, and that Defendant Virginia Tech will refrain from evoking FERPA as a bar to any subsequent discovery request made by Plaintiff or Defendants under the Federal Rules of Civil Procedure for information related to Plaintiff and Defendants Morrison and Crawford. Nothing in this Order restricts Virginia Tech's right to object to discovery requested on other grounds or to require a protective order for production under Federal Rule of Civil Procedure 26(c).

Except with the prior written consent of all parties, or pursuant to prior order of the Court after notice to all parties, no tapes, transcripts documents and other materials produced under this Amended Consent Order, and any information contained therein, shall be disclosed to any person other than the following:

A. The parties to this case, their counsel, and any expert witnesses employed by their counsel engaged in the preparation for and trial of this action ;

B. The Court, Clerk of the Court, and their respective assistants and clerical employees, and

C. Court reporters and their assistants and clerical employees hired by any party to record and/or transcribe testimony given in connection with this case to the extent disclosure is necessary to enable such reporters to perform their reporting and/or transcribing functions.

No person reviewing or receiving any of these tapes, documents, transcripts or information shall disclose it or its contents to any person other than those identified in the above paragraph, and then only in accordance with the terms of this Amended Consent Order. Counsel for the respective parties to this case shall maintain custody in their offices of all such materials produced, including any and all copies produced by any other party.

Any and all tapes, transcripts, documents and information disclosed or produced by a party in this proceeding pursuant to this Amended Consent Order shall be used solely for the prosecution, defense or settlement of this action, and shall not be used or disclosed by the receiving party for any other purpose.

Notwithstanding the forgoing provisions, this Amended Consent Order shall be without prejudice to the right of any party or other person to challenge the propriety of any discovery on other grounds, or assert a claim of privilege pursuant to the attorney-client privilege, work product doctrine, or any other applicable privilege, and nothing contained herein shall be construed a waiver of any objection which might be raised as to the admissibility of any evidentiary material.

Let the Clerk send certified copies of this Amended Consent Order to all counsel of record.

DATE: 2-26-96

JUDGE

Seen and Agreed to:

A TRUE COPY, TESTE:
MORGAN E. SCOTT, JR., CLERK
BY:
DEPUTY CLERK

Virginia Polytechnic Institute and State University

By: KAY HEIDBREDER

Antonio J. Morrison

By: W. DAVID PAXTON

Christy Brzonkala

By: EILEEN WAGNER

CLERK'S OFFICE, U.S. DIST. CT.
AT DANVILLE, VA
FILED for Roanoke
MAY 7 1996
MORGAN E. SCOTT, JR., CLERK
BY Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

ENTERED
5·8·96

CHRISTY BRZONKALA,)
Plaintiff,)
)
v.)
)
VIRGINIA POLYTECHNIC AND STATE UNIVERSITY, et al.,)
)
Defendants.)

Civil Action No. 95-1358-R

MEMORANDUM OPINION

By: Jackson L. Kiser
Chief United States District Judge

On March 1, 1996, Christy Brzonkala filed an amended complaint alleging violations of Title IX of the Education Amendment Act, 29 U.S.C. § 1681, et seq., of the Violence Against Women's Act, 42 U.S.C. § 13981 ("VAWA"), and of various state laws. Brzonkala brought claims against Virginia Polytechnic Institute & State University ("VPI"), William Landsidle in his capacity as Comptroller of the Commonwealth, and three VPI students. The VAWA and some state law claims involve the students, and the Title IX and breach of contract claims involve VPI and Landsidle.

All defendants have moved to dismiss Brzonkala's claims. Having permitted briefing on the VAWA issue to be extended, I now will consider only the Title IX and breach of contract claims against VPI. Therefore, I will consider only VPI and Landsidle's motion to dismiss. Brzonkala invoked this Court's jurisdiction for the Title IX claim pursuant to 28 U.S.C. § 1331. She invoked this Court's jurisdiction for the breach of contract claim against VPI pursuant to 28 U.S.C. § 1367(a). She named Landsidle as a defendant in his capacity as Comptroller of the Commonwealth of Virginia in order to comply with Va. Code Ann. § 2.1-223.1. For the purpose of the motion to dismiss the Court must accept facts alleged in the amended complaint as true.

I. Alleged Facts

Brzonkala is an adult female. She attended VPI where she was a "student athlete" and a prospect for the women's softball team. Antonio Morrison, James Crawford, and Cornell Brown are adult males. They attended VPI where they were members of the football team. On the night of September 21, 1994 and the morning of the next day, Brzonkala was sexually assaulted in a room on the third floor of her dormitory by two men whom she and Hope Handley, another female student, had met less than a half an hour earlier and whose identities she knew only by given names and by their status as football team members. About five months later Brzonkala learned that the assaulters were Morrison and Crawford.

On September 21, Brzonkala, Handley, Morrison, and Crawford were in a room on the third floor of Brzonkala's dormitory. Handley and Crawford left the room following fifteen minutes of conversation, and Morrison immediately requested intercourse with Brzonkala. Brzonkala audibly told Morrison "no" twice. When Brzonkala rose to leave, Morrison forced her onto a bed, disrobed her, and forced her to submit to vaginal intercourse. Then Crawford came back into the room, exchanged places with Morrison, and forced Brzonkala to submit to vaginal intercourse. Morrison exchanged places with Crawford and forced Brzonkala to submit to vaginal intercourse a third time.

In the weeks following the assaults, Brzonkala became depressed, stopped attending classes, and attempted to commit suicide. A VPI licensed psychiatrist treated her, giving her anti-depressant medication. No VPI employee attempted any more than a cursory inquiry into the source of Brzonkala's mental distress. Brzonkala eventually sought retroactive withdrawal for the 1994/1995 academic year.

In February 1995, Brzonkala recognized Morrison and Crawford as the two men who forced her to submit to intercourse. At the end of April 1995, Brzonkala filed a complaint against Morrison and Crawford under VPI's Sexual Assault Policy which was formally released for dissemination to students on July 1, 1994 Brzonkala relied on VPI officials to prosecute her complaints, and, believing her failure to preserve physical evidence foreclosed any criminal charges, Brzonkala did not bring criminal charges against Morrison or Crawford At no time did any VPI employee urge Brzonkala to reconsider her decision not to initiate a formal incident report or to reconsider her basis for thinking that criminal charges would be futile At no time did any VPI employee report the assaults to the VPI Police or the Blacksburg Police No incident report was filed with any policing authority

Male sexual assault on a female is the only violent felony for which VPI authorities decline to file incident reports either with VPI Police or with Blacksburg Police Male sexual assault on a female is the only violent felony for which VPI authorities defer to the victim's wishes about whether to file an incident report with VPI Police or Blacksburg Police

In the first hearing, the VPI employee responsible for conducting the hearing stated that the charges were being brought under VPI's Abusive Conduct Policy, which included sexual assault At this hearing Morrison admitted the sexual contact and admitted that Brzonkala told him "no" twice Crawford denied any sexual conduct with Brzonkala The VPI judicial committee found Morrison guilty of sexual assault and suspended him from school for two semesters The committee found insufficient evidence to take action against Crawford In May 1995, Morrison appealed the committee's sanction, and an appeals officer upheld the sanction By the procedural rules in VPI official publications, the decision of the appeals officer is final

In early July 1995, VPI officials Donna Lisker and Cathryn Goree called personally at Brzonkala's home in Fairfax, a four hour drive from Blacksburg, to advise Brzonkala that (a)

Morrison's attorney had threatened to sue the school on due process grounds, (b) the school had deemed as having merit Morrison's ex post facto challenge that he was charged under the Sexual Assault Policy, not yet included in the Student Handbook, (c) the school refused to defend in court the judicial committee's decision and the subsequent appeal decision, and (d) a re-hearing under the Abusive Conduct Policy which pre-dated the Sexual Assault Policy was required. To induce Brzonkala to agree to participate in a second hearing, Lisker and Goree assured Brzonkala that VPI believed Brzonkala's story and that the second hearing was a mere technicality to correct the school's error in bringing the original complaint under the not-yet-widely-disseminated Sexual Assault Policy.

Counsel for VPI, as members of the Office of the Attorney General, were on actual notice before 1995 that the due process arguments which Morrison claimed were groundless under Virginia law. Such an ex post facto challenge had already been rejected in a case in which a school was also represented by the Office of the Attorney General.

Brzonkala submitted to a second judicial committee hearing, which was de novo and lasted seven hours. She was required to engage her own counsel at her own expense. Preceding the second hearing, Brzonkala and her attorney were denied access to the audio-tape recordings and other records while Morrison and his attorney were granted full access. VPI officials informed Brzonkala that all student testimony given at the first hearing would be accepted only by sworn affidavit. Notice was not sufficient for Brzonkala to secure these affidavits, due to her witnesses being on summer break, and so Brzonkala had to present a summary of her student witnesses' testimony through testimony of Lisker. Preceding the hearing, VPI officials admonished Brzonkala to avoid mention of Crawford in her testimony because he had been dismissed from the process. Consequently, Brzonkala was forced to give a truncated version of events.

The judicial committee found Morrison guilty of abusive conduct and reimposed the sanction of an immediate two year suspension Morrison appealed the result, and, without notice to Brzonkala, VPI set aside the sanction against Morrison Morrison returned to VPI for the Fall 1995 semester Brzonkala learned through a November 30, 1995 newspaper article that the judicial committee at the second hearing had actually found Morrison guilty of a reduced charge of "using abusive language "

In her amended complaint, Brzonkala states that VPI football coach Frank Beamer, through his subordinates, his agents and/or his representatives, participated directly and indirectly in the process by which the sanction against Morrison was overturned Brzonkala states that VPI officials coordinated a plan as early as May 1995 to allow Morrison to rejoin the all-male football team for the 1995 season Brzonkala states that VPI employees coordinated a plan to obscure Brown's role in the rape She states, "Solely because he is a member of [VPI's] all-male football team, Morrison was accorded affirmative advantages in the second hearing which were not accorded to plaintiff, who is a female " "Plaintiff was repeatedly and intentionally placed by [VPI] officials at a material disadvantage during the second hearing process because she is a female and because she is a victim of a specific type of sexual assault which, under Virginia common law, can only be alleged by a female against a male "

Brzonkala alleged, "Because Morrison would be present on the Virginia Tech campus during the Fall, 1995 semester and because officials of Virginia Tech had repudiated her claim that Morrison had raped her before numerous students and athletes who were aware of the facts, plaintiff feared for her personal safety and canceled her plan to return to Virginia Tech for the Fall, 1995 semester See paragraph 42 above " Paragraph 42 states, "After plaintiff filed her charge under the school's Sexual

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Assault Policy, she learned that a Virginia Tech student overheard an unidentified male Virginia Tech athlete advise defendant Crawford that he should have 'killed the bitch '"

VPI is required to make public the nature and number of crimes involving its students, for which there are incident reports VPI reported four rapes in 1992 and one in 1993 Between 1992 and 1993, thirteen rapes were adjudicated at VPI through internal procedures, with nine resulting in disciplinary action against the accused student

II Standard

Rule 12(b)(6) dismissals are generally disfavored and only granted when it appears beyond doubt that a plaintiff can prove no set of facts in support of its claim which would entitle it to relief Conley v Gibson, 355 U S 41, 45-46 (1957) I may only test plaintiff's complaint for any legal deficiency and must construe the factual allegations in a light most favorable to the plaintiff Scheuer v Rhodes, 416 U S 232 (1974), Schatz v Rosenberg, 943 F 2d 485, 489 (4th Cir 1991), cert denied, 503 U S 936 (1992)

III Discussion

Brzonkala alleges that VPI violated Title IX[1] Title IX states in part as follows

> No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance . .

20 U S C §1681 This section provides an implied private cause of action Cannon v University of Chicago, 441 U S 677, 709 (1979) Courts have applied the same scheme of analysis for issues arising under this statute as in Title VII cases See, e g , Preston v Commonwealth of Virginia, ex

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[1] Brzonkala makes separate Title IX claims against VPI for disparate treatment and disparate impact gender discrimination I will analyze these claims together, considering the allegations supporting a Title IX claim generally

rel New River Community College, 31 F 3d 203, 206 (4th Cir 1994)

A On the Basis of Sex

To state a cause of action under the above statutory section, the act by the school must be "on the basis of sex " 20 U S C §1681

> A plaintiff alleging gender discrimination by a university must do more than recite conclusory assertions In order to survive a motion to dismiss, the plaintiff must specifically allege the events claimed to constitute intentional discrimination as well as circumstances giving rise to a plausible inference of racially discriminatory intent
>
> [A]llegations of a procedurally or otherwise flawed proceeding that has led to an adverse and erroneous outcome combined with a conclusory allegation of gender discrimination is not sufficient to survive a motion to dismiss The fatal gap is the lack of a particularized allegation relating to a causal connection between the flawed outcome and gender bias A plaintiff must thus also allege particular circumstances suggesting that gender bias was a motivating factor behind the erroneous finding

Yusuf v Vassar College, 35 F 3d 709, 713-15 (2d Cir 1994) (citations omitted) In Yusuf, plaintiff Syed Yusuf, a male student, brought a claim against Vassar College alleging in part sex discrimination in violation of Title IX arising out of his discipline for allegedly sexually harassing his roommate's girlfriend Id at 711 The girlfriend pursued a charge of sexual harassment only after Yusuf made it clear that he would not drop criminal charges against his roommate Id at 712 The Second Circuit reversed the trial court's dismissal of Yusuf's Title IX claim Id at 716 Yusuf's complaint alleged

> [(1)] that a false and somewhat stale charge of sexual harassment was made against him only after he pursued criminal charges for a brutal assault by the complainant's boyfriend[,] [(2)] that he was on good terms with the complainant after the alleged incidents of sexual harassment and until he pursued those criminal charges[,]
>
> [(3)] that various actions by the presiding official of the disciplinary tribunal prevented him from fully defending himself[,] [and (4)] that males accused of sexual harassment at Vassar are "historically and systematically" and "invariably found guilty, regardless of the evidence, or lack thereof "

Id. at 716 The court placed particular importance on the fourth allegation, stating, "The allegation that males invariably lose when charged with sexual harassment at Vassar provides a verifiable causal connection similar to the use of statistical evidence in an employment case " Id.

The case at hand differs from Yusuf in important ways An important distinction between Yusuf and Brzonkala was their relationship to the college judiciary proceedings Yusuf was a defendant whose status at the college was directly affected by the alleged biased proceeding which favored the female complaining party The reverse is true here Brzonkala, as the complaining witness was in no direct jeopardy of having her status at VPI affected Thus, the connection between her alleged injuries and the actions of VPI are more tenuous and require factual allegations that bridge the "fatal gap " Id. at 715

The two cases differ in other important ways First, Brzonkala does not present any statistical allegations from which I can reasonably infer that VPI's conduct was based on illegal discriminatory intent Brzonkala's strongest statistical allegations lack relevance and do not indicate discriminatory intent in the same manner as allegation number four above In fact, the only relevant statistical evidence presented by Brzonkala indicates a lack of discriminatory intent Second, Brzonkala supports her claim that gender caused the discrimination with a false comparison based on VPI's treatment of her compared to its treatment of Morrison during the judiciary proceedings Brzonkala and Morrison were not similarly situated with regard to these proceedings, and so any comparison is of little relevance Third, Brzonkala presents allegations from which I can reasonably infer a controlling intent by VPI which lacks any illegal discriminatory animus whatsoever These include allegations indicating that VPI officials influenced the judicial proceedings in order to permit Morrison to play football

1. Statistical Allegations

Brzonkala does not present statistical allegations from which I can even reasonably glean discriminatory intent. She states that VPI authorities treat the violent felony of sexual assault by male students against female students differently from all other violent felonies. Even if substantiated, such a statement would not indicate gender discrimination by VPI. There are much more plausible reasons than discrimination for VPI's disparate treatment of these unusual cases. Rape is very different from other violent felonies, and it is understandable that VPI officials would treat rape differently without any discriminatory animus whatsoever. Indeed, the strongest inference from this allegation is that VPI is sensitive to victims' feelings. For example, VPI officials likely would not want to push raped females into further proceedings when it is undoubtedly often difficult for these females to bring such matters to the attention of school officials in the first place. It is understandable that VPI officials would defer to a sexual assault victim's wishes about whether to file an incident report with police while at the same time not deferring to other violent felony victim's wishes. Some people, including victims, understand rape to socially stigmatize victims. While such a stigma is undeserved, such a perception certainly could warrant a different level of influence by VPI over rape victims than other violent crime victims. Therefore, VPI's less strong influence over rape victims than over other victims of violent felonies is of questionable relevance. The only clearly relevant statistical evidence indicates a lack of illegal discriminatory intent by VPI. Brzonkala stated in her complaint that in 1992 and 1993, VPI adjudicated thirteen rapes with nine resulting in disciplinary action against the accused.

2. False Comparison

Brzonkala relies largely on a comparison of VPI's treatment of her to its treatment of Morrison and Crawford. Brzonkala indicates that these male athletes were given preferential treatment over her, a female athlete. The relative positions of the male football players and Brzonkala were not the same. Brzonkala does not allege that her status as a student athlete was affected or even considered in VPI's handling of the charges. As the charging witness, Brzonkala's status as a student and athlete was not in jeopardy. Although understandably disappointed in the ultimate outcome of the proceedings against Morrison and Crawford, her status at VPI was in no way affected.

The fact that the parties were all VPI athletes who were somehow involved in the same VPI judiciary proceeding is not enough. Unlike Morrison and Crawford, Brzonkala was not even a party to the proceeding. She was comparable to a victim of a crime, with VPI acting as the prosecutor. Unlike Morrison and Crawford, she was not facing judiciary charges or possible suspension from VPI. Had there been the same cross charges between Brzonkala and Morrison and had Brzonkala been treated unfavorably and Morrison favorably, then the comparison of their treatment would indicate discrimination. Had Brzonkala faced judiciary charges for assault, had Morrison later faced similar charges, and had VPI suspended Brzonkala but not Morrison, then comparison of their treatment would indicate discrimination. However, Brzonkala was not in a situation similar to Morrison and Crawford and so an inference of illegal discriminatory treatment from the comparison is unjustified.

3. Permissible Intent

Brzonkala makes a conclusory allegation that Morrison and Crawford received favorable treatment because they are males, but her factual allegations do not support such an inference. Brzonkala argues that VPI gave the football players preferential treatment so that they could play on the all-male football team. By this argument, the fact that Brzonkala is female is incidental to VPI's intent. Gender is of little, if any, consequence to VPI's intent, and Brzonkala's gender is of no consequence For example, if a football player was in trouble for battering a VPI male softball player and was facing suspension, VPI could have the same reason for trying to influence any judicial proceedings If a female softball player was facing suspension, VPI could have the same reason for trying to influence the judicial proceedings It just so happens that Morrison was on an all-male team and in trouble for violent conduct that affects females VPI's intent was to allow an athlete to play on its team This intent was proximately based on Morrison's athletic status, not the facts that he is a male and that Brzonkala is a female The genders involved are inconsequential to VPI's proximate intent, and so Brzonkala has failed to allege the necessary discriminatory intent

B Hostile Environment

Although Brzonkala does not specifically argue this point, it is possible to glean from her complaint an allegation that VPI had a hand in permitting a hostile school environment based on Brzonkala's gender Brzonkala alleged that because VPI permitted Morrison to be present on the VPI campus during the Fall 1995 semester, she feared for her personal safety and canceled her plan to return to VPI for the Fall 1995 semester She cites paragraph 42 of her complaint which states, "After plaintiff filed her charge under the school's Sexual Assault Policy, she learned that a Virginia Tech student overheard an unidentified male Virginia tech athlete advise defendant Crawford that he should have 'killed the bitch.'"

In Harris v. Forklift Systems, Inc., 510 U.S. 17 (1993), in the context of Title VII, the Supreme Court stated, "Conduct that is not severe or pervasive enough to create an objectively hostile or abusive work environment--an environment that a reasonable person would find hostile or abusive--is beyond Title VII's purview Likewise, if the victim does not subjectively perceive the environment to be abusive, the conduct has not actually altered the conditions of the victim's employment, and there is no Title VII violation." Id. at 370. Therefore, the Supreme Court listed two requirements: (1) conduct that objectively created a hostile or abusive work environment and (2) the victim's subjective perception that an environment is abusive.

The case at hand is not an illegal hostile environment situation. Brzonkala fails to meet both requirements. First, VPI did not create or implicitly condone a hostile environment. In fact, the hostile environment that Brzonkala alleged never occurred. Brzonkala left VPI due to her concern of possible future reprisal in reaction to her pressing charges. She did not allege that this future reprisal actually occurred. Second, Brzonkala did not perceive that the environment was in fact abusive, but only that it might become abusive in the future.

IV. Conclusion

Considering Brzonkala's allegations either together or seriatim, they do not allege facts which will support a conclusion that VPI acted with an anti-female animus. They simply do not rise to "a plausible inference of [sexually] discriminatory intent." Yusuf at 713. In the final analysis, Brzonkala has alleged a flawed judiciary proceeding, the outcome of which disappointed her, but she has failed to allege facts that would support the necessary gender bias to state a claim under Title IX.

Thus, I will dismiss Brzonkala's Title IX claim. I will dismiss the state law breach of contract claim for lack of jurisdiction. For the stated reasons, I will grant VPI and Landsidle's motion to dismiss. An appropriate order will be entered.

Chief United States District Judge

A TRUE COPY, TESTE:
MORGAN E. SCOTT, JR., CLERK
BY:
DEPUTY CLERK

HOUSE OF REPRESENTATIVES
OF THE UNITED STATES CONGRESS
104th Congress, First Session

Committee on Economic & Educational Opportunity

Hearing on H.R. 2416
The Open Campus Police Logs Act of 1995

June 6, 1996

TESTIMONY OF KENNETH BRZONKALA

My name is Ken Brzonkala. I'm here today to support my daughter, Christy, and other women like her who may have been victimized, not just once but twice . . . first, by the criminals who committed crimes against them, and then by the very systems that we, as parents, trusted to protect them--the colleges and universities of this country.

In September, 1994, after only a few weeks on campus at Virginia Polytechnic Institute and State University, called Virginia Tech, Christy was raped by two football players who were also enrolled at Virginia Tech. Although some of the circumstances surrounding this crime indicate that Christy was not in complete control of her faculties at the time the crime occurred--she had been drinking at a party away from the dormitory where the crime took place--there is nothing she did to deserve being raped by these two athletes and then to be violated again by Virginia Tech.

Testimony of Kenneth Brzonkala

At the time of the September incident, neither my wife nor I knew anything about it. We learned about it sometime in April, 1995--seven months later. My first reaction to this news was shock and anger. I will not repeat some of the remedies that occurred to me upon learning of this horrendous attack upon my daughter. Eventually with the help of a friend, my wife and I drove to Blacksburg to support Christy.

We met initially with a counselor from the University Women's Center and the Assistant Dean for Judicial Affairs. They explained the remedies available to Christy and indicated that, even though we were her parents, since she was over the age of 18 at the time of the rape, only she could initiate the action to bring those remedies to bear on this case. Christy elected to go through the University's judicial system to seek redress. We all assumed that the case would be handled quickly and fairly.

Within the next few weeks, after the first hearing and the appeal process were completed, we believed that even though only one of the perpetrators was found guilty and punishment imposed on him, at least some measure of justice was served. Little did we know that this is when the insidious process of the University's judicial system first became apparent.

During the summer while I was out of town, the University sent the Dean of students and the rape counselor from its Women's Center to our home--at least an eight hour round-trip from Blacksburg by car. They told Christy the first hearing was not valid because of some technicality in the process. Christy was told that she would have to agree to appear at another hearing a couple weeks later or the University would let the student who was found guilty return to school without any sanctions. Christy opted to appear at the second hearing. School officials warned Christy that she could not mention the second rapist because he was exonerated in the first hearing. We thought the second hearing panel returned an identical verdict as the first. Christy continued to plan her return to Virginia Tech believing that at least some measure of justice had been served. Then, weeks before the appeal process was completed, I read in the Washington Post that Virginia Tech's football coach announced the twice convicted football player would be reinstated to the University and would be playing on the football team in the fall.

Just before the fall semester opened, the appeal was upheld, but this football player--who had been found guilty of violating the school's Abusive Conduct Policy twice--got a reprieve. The two-semester suspension was lifted; he was referred for one hour of counseling because the University Provost said "the penalty was too harsh for the violation." At this point, my daughter and our entire family became extremely suspect of the entire proceeding.

When the school called to find out why Christy was not returning, a sort of standard exit interview, she told her story. Later someone from the student newspaper called and Christy told the whole story giving permission for her name to be used. Once the story appeared in the press, the University explained the football player had actually been convicted of using "abusive language," not of sexual assault.

Christy filed a federal lawsuit against Virginia Tech under Title IX and against the two perpetrators under the new Violence Against Women Act. I am not here today to promote those suits. I am here to urge the passage of the "Open Campus Police Logs Act of 1995" to stop the cover-up of crimes reported to Virginia Tech officials and officials of other colleges and universities around the country.

I raised my children to be trusting and to believe in the fairness of the nation's judicial systems, including those of Virginia Tech and other schools, both public and

Testimony of Kenneth Brzonkala

private. It now appears that I may have made a big mistake. From my daughter's experience, and my own in supporting her, I doubt that Virginia Tech shares my definition of fairness and justice. From stories that other people have told me, this conclusion is not solely limited to Virginia Tech.

The issue for these institutions is not justice---in many respects, it is not even education. It is all about money. Why else would Christy's case have been handled in such a way? Why did Virginia Tech try to conceal this incident? Why did so many University officials tell Christy, my wife and me that they believed Christy, but when it came time to carry out their duties to their student body, repudiate her? Why has Virginia Tech reported under the "Student Right to Know Act" only rapes that were characterized by Virginia Tech's spokesman as "violent" rapes? Any rape is, by definition, an act of violence. The Campus Security Act of 1990 and the Students Right to Know Act of 1992 are the first steps in restoring some semblance of justice on our college and university campuses. The Open Campus Police Logs Act can be another.

Even these laws go only so far. If we really want our college and university campuses to provide the education of the next generation of responsible citizens, we have to stop applying double standards. We need education in the sunshine. We demand the same of our governing institutions at the federal, state and local levels--why not in our educational institutions, as well?

I thank you for the opportunity to appear before this committee. I will answer any questions you may have.

Chairman McKEON. Thank you, Ms. Brzonkala.
Ms. Jakobson.

STATEMENT OF MARGARET JAKOBSON, CAMPUS SECURITY ADVOCATE

Ms. JAKOBSON. Honorable Members of the committee, panelists and members of the public, Carl Sandburg wrote in his poem "The People, Yes: Today me and tomorrow maybe you."

Today I am the first complainant under the Campus Security Act, but tomorrow it could be someone that you know. Now, they had better be ready for an advanced education in the law, stonewalling, denial of access to public data, false material facts, and conspiracy.

Moorhead State University flat out does not care about the United States Department of Education. They are not just a Campus Security Act complaint, but they have two Title IX settlement agreements, and they are a three-time violator of the Family Educational Rights and Privacy Act.

But my concern is that people are calling these minor statistical infractions. These are people's lives we are talking about here. In January of 1996, The New York Times reported Assistant Secretary Longanecker as stating that enforcing the Campus Security Act was not a priority for the United States Department of Education. Now, this made me feel pretty good since I had been the complainant since October, and I was in a process where it really was not a priority, but my priority is my MSU Forensics teammate who came to that campus a virgin, and she left a rape survivor.

My priority is three rapes and three sexual assaults reported in the campus newspaper stated as occurring in 1991, but lost on MSU's yearly crime reporting documents.

My priority is the fact that sex offenses can be hidden as sexual harassment incidents in affirmative action office records.

My priority is the fact that none of the MSU yearly compliance documents state any possible sanctions for sex offenses, which is required by the Campus Security Act.

My priority is that survivor of frostbite, a pinched nerve in his neck, a broken jaw, and a breakdown of the muscles in his arms due to overexertion after the Old Order of the Owls made him drink whiskey, eat and vomit dog food, beat him with a boat paddle, burn him with hot wax, choked him with a rope, and he is not an aggravated assault at Moorhead State University.

What is going on here? I believe that we need to have enforcement of the Federal law to the fullest extent of the law, and that includes the prosecution of school officials who knowingly and wilfully provide false material facts and construct compliance schemes to defraud the United States Government.

I want the school officials to face the same penalty as the student who commits financial aid fraud. You know what? I do not get 45 years to pay back my loans, but Moorhead has gotten 20 years under Title IX, 20 years under FERPA, five years under the Campus Security Act. We can set up my deferment plan on that 45 years right now. I would just love to have it.

But my problem is that at the monthly level Moorhead State University advertised crimes reported as required by Federal law when they cited that specific portion for the Campus Security Act which showed how they were not complying, and in February and September of 1995, they show no sex offenses, but female students reported faculty members sexually assaulting them.

Now, under Minnesota public data I got the priors on these two faculty members, and those faculty members had had two prior harassment reports. Now, what scares me about the reprimand letter of one of them is if you look at the Campus Security Act, the definition of forcible fondling, at best; the reprimand letter of the faculty member says, "The complaint alleges that you engaged in unwelcome physical conduct of a sexual nature, allegations which you have denied. My evaluation of the information in the report establishes to my satisfaction a reasonable probability that the allegations are true. I am informed by the affirmative action officer that this is the second complaint from a student this academic year, 1992–1993, alleging unwelcome physical conduct on your part."

Now, this faculty member ended up getting charged in Clay County District Court, May of 1996, for one count of criminal sexual conduct due to his actions on the Moorhead State University campus in September of 1995.

March 24, 1994, the United States Department of Education gave Moorhead State University technical assistance specifically with regard to sexual harassment because of my OCR complaint. I feel responsible. I thought we would stop this. I thought that this would never happen again.

Two prior harassment reports, two faculty members going on to reports of sexually assaulting students, and they are talking about the money here. Do you know what? When does Janet Reno come in and defend a Member of Congress and sign a settlement agreement along with the President of the United States because one of the people in here does something? At Moorhead State University the Attorney General's Office and the President of Moorhead State can cut those deals. I do not even know what all of them are.

As Sandburg writes in "The Darkness with a Great Bundle of Grief," "The people march and in the night overhead a shovel of stars for keeps, the people march."

And for each student a star: Suzanne and Chris, Jana and J.D., Stephanie and Ryan, Heather and Sarah, the Clerys, and Christy.

Where to? What next?

[The prepared statement of Ms. Jakobson follows:]

HOUSE of REPRESENTATIVES

Subcommittee on:

POST-SECONDARY EDUCATION,

TRAINING & LIFE-LONG LEARNING

June 6, 1996

Honorable members of the Committee, Panelists and members of the public:

Carl Sandburg wrote in his poem ... "The People, Yes" ...

"Today me and tomorrow maybe you."

Today, I am the first United States Department of Education complainant under the "Campus Security Act" [20 U.S.C. 1092(f)], but tomorrow, it could be someone YOU know.

They had better be ready for an advanced education in the LAW, stonewalling, denial of access to public data, false material facts and conspiracy.

When I speak of non-compliance with the Campus Security Act, I must also discuss the institutional use of the "Family Educational Rights & Privacy Act" [20 U.S.C. 1232(g)] as a shield against colleges' and universities' liability .. preventing "WARNING" students about Campus crimes; and the silencer of complainants, who are survivors of everything from hostile environment harassment to aggravated and sexual assault to rape, as well as the need .. in fact, absolute necessity .. for the "OPEN CAMPUS POLICE LOGS ACT" [H.R. #2416] to access the evidence necessary for filing a complaint.

Even with the evidence .. yearly and monthly institutional documents .. from Moorhead State University of Moorhead, Minnesota, showing their failure to follow:

1. FBI Uniform Crime Reporting standards (UCR definitions);
2. FAILURE to report all properties following the definition of "CAMPUS";
3. FAILURE to compile all Campus Crimes, including crimes reported to the Moorhead City Police Department and/or Officials of the University;
4. FAILURE to report Campus Crime accurately.

I had to be ready for the BATTLE of my LIFE ! ! !

I was not prepared for the United States Department of Education to have NO Complaint or Consent forms, (informing the complainant and respondent of their rights and responsibilities under the Privacy Act of 1974 and the Freedom of Information Act), or

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the school NOT even being informed by the Department of Education of my Complaint in writing, other than its receipt, as per their response. [See FOIA and Privacy Act of 1974 (5 U.S.C. §552a) & Freedom of Information Act (5 U.S.C. §522) Exhibits]

Prior to the involvement of two conscientious DOE investigators, who conducted the "ON-SITE" investigation of Moorhead State University from April 1st to the 5th, 1996, the school had tried trick after trick, false material fact after false material fact .. knowing they were already sitting in NON-COMPLIANCE with TWO (2) other Department of Education enforced laws (TITLE IX, the Family Educational Rights & Privacy Act) and had already received "TA" for sexual harassment and all aspects of TITLE IX.

THE UNIVERSITY FLAT OUT DOES NOT CARE ! ! ! DOE means NOTHING to MOORHEAD STATE; and there's always more students where I came from ! ! !

For the last time, these crimes are not "minor statistical infractions," these are people's lives ! ! !

January, 1996, the New York Times reported Assistant Secretary Longenecker as stating ... enforcing the Campus Security Act was not a "priority" for the United States Department of Education.

Honorable Representatives, members of this esteemed Committee:

-- My PRIORITY is my 1991-1992 MSU Forensics team-mate, who came to MSU a VIRGIN and left a RAPE survivor! [Exhibit: City of Moorhead Police Department ICR -- "Criminal Sexual Conduct".]

-- My PRIORITY are the three (3) RAPES and three (3) SEXUAL ASSAULTS reported in the Campus newspaper, "The ADVOCATE", stated as occurring in 1991, but were lost on MSU's yearly Crime reporting documents; [Exhibit]

-- My PRIORITY is the fact that SEX OFFENSES can be hidden as SEXUAL HARASSMENT incidents in Affirmative Action Office records; [Exhibit]

-- My PRIORITY is the fact that no MSU yearly compliance document states any "possible sanctions" for sex offenses, as specifically required by the "Campus Security Act" of 1990; [Exhibit]

-- My PRIORITY is the survivor of " ... frostbite, a pinched nerve in his neck, a BROKEN JAW and a breakdown of the muscles in his arms due to over-exhertion ... " after the Old Order of the Owls made him drink whiskey, eat and vomit dog food, beat him, burned him with hot wax and choked him with a rope. He pleaded for the "Owls" to stop and twice tried to escape. [Exhibit]

The ICR of the "Campus Rover," who himself was a student .. and eventually pled guilty to felony swindle because he was committing insurance fraud at the same time he was ensuring campus safety .. states: "PHYSICAL ASSAULT." Yet, I see no AGGRAVATED ASSAULT on MSU's 1995 yearly Crime reported for the year 1994; [Exhibit]

-- My PRIORITY is the fact that Moorhead State University's yearly Crime reporting documents had a variance in virtually every Crime Category for the exact same years reported. [Exhibit]

-- MY PRIORITY is ENFORCEMENT of the FEDERAL LAW to the FULLEST EXTENT of the LAW ! ! !

which includes the prosecution of college and university officials who "knowingly and willfully" provide "false material facts" and "construct compliance schemes" (See 18 U.S.C. § 1001) to "defraud the United States government." (See 18 U.S.C. § 371.)

Yes, school officials should face the same penalties students, who lie on their financial aid application and deferrment forms do. QUID PRO QUO !!! Why are colleges and universities ABOVE the LAW???

What do they possibly have to gain??? The Honorable Representative James Ramstad (R-Minn) made it clear in 1991:

> "It's obviously the intent of many of these colleges and universities to protect their backsides, to protect their fundraising, to keep their enrollments up."

I'm here to say, institutions will "LIE to COMPLY" just to keep their federal funds. In the case of Moorhead State University, I can show you 5.8 to 4.6 million [1991 DOE figure and 1992 DOE figure respectively] DOE reasons why.

IT IS INTENTIONAL ! ! ! It is not some "innocent mistake" when Moorhead State University cited their monthly "Campus Crime Profiles" as their "CAMPUS WARNINGS" [20 U.S.C. § 1092 (f) (3)] in MSU's yearly documents. Those monthly documents advertised: "Crimes Reported as Pequired by Federal Law." If you knew the "Campus Security Act" [20 U.S.C. 1092(f)] ... which most students do not; nor are they LEGALLY REQUIRED to ... Moorhead State University even cites back specific portions of the law in small print, which they do not follow:

> "The statistics that appear in this report reflect only incidents reported to the Campus Security/Nightwatch Program. They do not include incidents reported to any other office or any incidents occurring at the Regional Science Center. These are not categorized according to FBI Uniform Crime Reporting (UCR) standards."

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When you "knowingly, willfully" and intentionally cite specific portions of the "Campus Security Act" that you WILL NOT FOLLOW, on monthly "Campus Crime Profiles" from 1992 until November of 1995 ... IT IS "INTENTIONAL" !!! It is NOT "HUMAN ERROR!" An unexplained VIOLATION of the Act is negligence in and of itself. Moorhead State University KNEW the law. [Exhibits]

Monthly documents reporting Campus Crimes in February and September of 1995 show NO SEX OFFENSES, despite the campus newspaper's coverage of Sexual Assaults reported by female students against male Faculty members. Prior to these reported assaults, both faculty members had two (2) PRIOR Complaints of harassment. May, 1993 the current President of Moorhead State University, Roland Barden informed one of the male faculty members in written reprimand:

> "The complaint alleges that you engaged in unwelcome physical conduct of a sexual nature .... allegations which you have denied. My evaluation of the information in the Report establishes to my satisfaction a reasonable probability that the allegations are true. I am informed by the Affirmative Action Officer that this is the second complaint from a student this academic year [1992-1993] alleging unwelcome physical conduct on your part."

This male faculty member was finally charged (May, 1996) in Clay County District Court with one count of criminal sexual conduct due to his actions on the Moorhead State University Campus in September of 1995.

March 24, 1994, the United States Department of Education provided Moorhead State University "ON-SITE," "Technical Assistance" specifically with regard to sexual harassment and other DOE-OCR enforced laws, as a result of my OCR Complaint. Moorhead State University stated it was "WITHOUT MERIT," and the institution denies I was sexually harassed. However, my actual incidents were listed and presented .. complete with overhead magnification .. by the Minnesota State College & Universities system, as being: "SEXUALLY HARASSING FACULTY BEHAVIORS" in their handout entitled: "What Every Faculty Member Should Know About Sexual Harassment." WITHOUT MERIT ? ? ? [Exhibit]

I feel responsible. I thought that the DOE would stop all this. I thought this would NEVER happen again! Two (2) male faculty members, two (2) prior HARASSMENT reports, followed by two (2) reported SEXUAL ASSAULTS against two (2) other female students. WITHOUT MERIT ? ! ? ! ? No, the "VICTIMS' RIGHTS" portion of the Campus Security Act never took into account faculty members sexually assaulting students. Only MSU did when they did not report them on their monthly "Crimes Reported as Required by Federal Law."

Time is running out! The Family Educational Rights & Privacy Act is still hiding crime in student records. At Moorhead State University complainants are threatened from speaking about what happened in Campus Conduct Hearings, where penalties do not fit crimes and can be over-ridden by administrators. Likewise, faculty disciplinary recommendations can be over-ridden.

The Campus Security Act NEVER banked on the Attorney General's office, System and Union as well as perpetrator wanting a crack at a survivor with limited resources. Wasn't the first ASSAULT enough ? ! ? !

Minnesota is an "OPEN LOG STATE," but I have been denied "OPEN LOGS" .. STONEWALLED by the university when I found out that ALL the monthly "Campus Crime Profiles" were inaccurate .. STONEWALLED in responses for Access to Public Data. I've been LIED to, LIED about and I'm here to request the Committee to ask the United States Department of Education to enforce the law, punish the predators and provide the victims their rights.

As Sandburg writes:

"In the darkness with a great bundle of grief, the PEOPLE march" ....

The Cleary's and the Baers, the Koestners and the Brzonkala's,
Donovan and Ann, Molly and Bernice, Linda and Cindy ....

"In the night, and overhead a shovel of stars for keeps, the PEOPLE march" ....

And for each student, a star ....

Suzanne and Chris, Jane and J.D., Stephenie and Ryan,
Jeanne and Jerimy, Robert and Joy, Heather and Sarah ......

Look into the sky ....

"WHERE TO? WHAT NEXT ???"

Margaret A. Jakobson
Margaret A. Jakobson

June 6, 1996
June 6, 1996

Additional Inquiries Contact:
Margaret A. Jakobson
806 Main Avenue
Fargo, North Dakota 58103
Telephone: [701] 232-2772
FAX No: [701] 232-7851

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DEPARTMENT OF EDUCATION
PROCEDURAL
RECOMMENDATIONS

and

CONGRESSIONAL
HEARING
EXHIBITS

EXHIBIT

[Rec'd from DOE-OCR in conjunction with Case #05-94-2037]
See June 6, 1996 Testimony ... Page 2, ¶ 1.

OFFICE OF CIVIL RIGHTS
DEPARTMENT OF EDUCATION
Washington, D.C. 20202

NOTICE ABOUT INVESTIGATORY USES OF PERSONAL INFORMATION

There are two laws governing personal information submitted to all Federal agencies including the Office for Civil Rights (OCR): The Privacy Act of 1974 (5 U.S.C. § 552a), and the Freedom of Information Act (5 U.S.C. § 552). This brief description provides an overview of these laws.

THE PRIVACY ACT protects individuals from misuse of personal information held by the Federal Government. The law applies to records that are kept and can be located by the individual's name or social security number or other personal identification system. Persons who submit information to the Government should know that:

- OCR had the duty to investigate complaints of discrimination on the basis of race, color, national origin, sex, handicap, and age in institutions that receive Federal funds. The agency also has the duty to conduct reviews of Federally-funded institutions to assess their compliance with civil rights laws.

- Information that OCR collects is analyzed by authorized personnel within the Office. This information may include personal records, academic standing, or other personal information. OCR staff may need to reveal certain information to persons outside of the agency in the course of verifying facts or gathering new facts to develop a basis for making civil rights compliance determination. Such details could include the physical condition or age of a complainant. OCR may also be required to reveal certain information to any individual who requests it under the provisions of the Freedom of Information Act. (See below.)

- Personal information will be used only for authorized civil rights compliance and enforcement activities. If during the investigation of a handicap discrimination complaint, it becomes apparent that the allegations could constitute a violation under the Education for the Handicapped Act (EHA) but could not constitute a violation under Section 504 of the Rehabilitation Act. OCR will refer the complaint to the Office of Special Education and Rehabilitative Services, which is authorized to handle such complaints.

- OCR will not release the information to any other agency or individual without written consent from the person who supplied the information, except in the 11 instances defined in the Department's regulation at 34 C.F.R. § 56.9(b). One of the exceptions is when release is required under the Freedom of Information Act. (See below.)

- No law requires a complainant to give personal information to OCR, and no sanctions will be imposed on complainants or other individuals who deny OCR's request. However, if OCR fails to obtain information needed to investigate allegations of discrimination, it may be necessary to close the investigation.

[Rec'd from DOE-OCR in conjunction with Case #05-94-2037]
[See June 6, 1996 Testimony ... Page 7 ¶ 1]

The Privacy Act permits certain types of systems of records to be exempt from some of its requirements, including the provisions granting individuals access to their own records. It is the policy of the Department to exempt systems of records only in compelling cases. The Department has issued regulations which allow OCR to deny a complainant access to the files compiled during the investigation of his or her civil rights complaint against a recipient of Federal financial assistance. The Department exercised its authority to exempt the complaint files and log system of records to aid negotiations between recipients and OCR in resolving civil rights issues and to encourage recipients to furnish information essential to the investigation.

The Office for Civil Rights does not reveal the names or other identifying information about an individual unless it is necessary for the completion of an investigation or for enforcement activities against an institution that violates the laws, or unless such information is required to be disclosed under FOIA or Privacy Act. OCR will kept the identity of complainants confidential except to the extent necessary to carry out the purposes of the civil rights laws, or unless disclosure is required under FOIA, Privacy Act or otherwise required by law.

THE FREEDOM OF INFORMATION ACT gives the public access to certain files and records of the Federal government. Individuals can obtain items from many categories of records of the Government --not just materials that apply to them personally. The Office for Civil Rights must honor requests under the Freedom of Information Act, with some exceptions. OCR generally is not required to release documents during an investigation or enforcement proceedings if the release could have an adverse effect on the ability of the office to do its job. Also, any Federal agency may refuse a request for records compiled for law enforcement purposes if their release could be an "unwarranted invasion or privacy" of an individual. Request for other records, such as personnel and medical files, may be denied where the disclosure would be a "clearly unwarranted invasion of privacy."

NOTICE OF COMPLAINANT/INTERVIEWEE RIGHTS AND PRIVILEGES

Complainants and individuals who cooperate in an investigation, proceeding of hearing conducted by OCR are afforded certain rights and protections. This brief description provides an overview of these rights and protections.

- A recipient may not force its employees to be represented by the institution's counsel nor may it intimidate, threaten, coerce of discriminate against any employee who refuses to reveal to the recipient the content of an interview. An employee does, however, have the right to representation during an interview with OCR. The representative may be the recipient's counsel, the employee's private counsel, or anyone else the interviewee authorizes to the present.

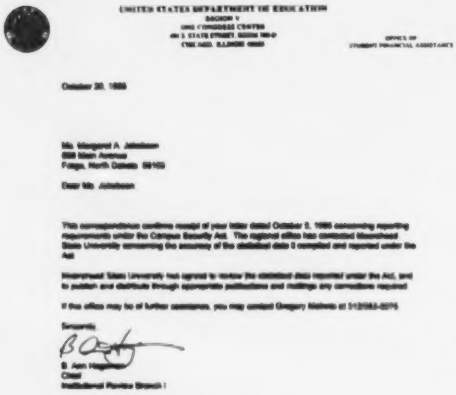
- The laws and regulations which govern OCR's compliance and enforcement authority provide that no recipient or other person shall intimidate, threaten, coerce or discriminate against any individual because he/she had made a complaint, testified, assisted or participated in any manner in an investigation, proceeding or hearing conducted under OCR's jurisdiction.

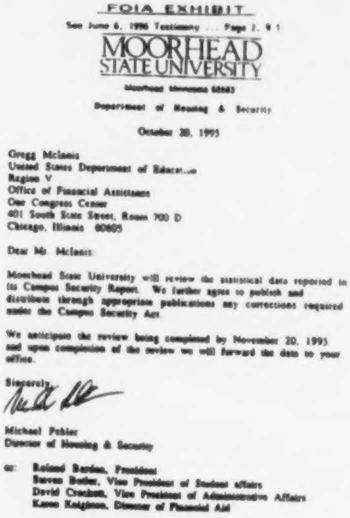
- Information obtained from the complainant or other individuals may be exempt from disclosure to the general public under the Privacy Act or under the Freedom of Information Act if release of such information could constitute an unwarranted invasion of personal privacy.

EXHIBIT

[House Sub-Committee on Post-Secondary Education, Training and Life-Long Learning ... June 6, 1996]

Page 2, ¶ 1





FOIA EXHIBIT

See June 6, 1996 Testimony ... Page 2, ¶ 1

MOORHEAD
STATE UNIVERSITY
Moorhead, Minnesota 56563
Department of Housing & Security

October 20, 1995

Gregg McInnis
United States Department of Education
Region V
Office of Financial Assistance
One Congress Center
401 South State Street, Room 700 D
Chicago, Illinois 60605

Dear Mr. McInnis:

Moorhead State University will review the statistical data reported in its Campus Security Report. We further agree to publish and distribute through appropriate publications any corrections required under the Campus Security Act.

We anticipate the review being completed by November 20, 1995 and upon completion of the review we will forward the data to your office.

Sincerely,

Michael Pehler
Director of Housing & Security

cc: Roland Dille, President
Steven Butler, Vice President of Student affairs
David Crockett, Vice President of Administrative Affairs
Karen Knighton, Director of Financial Aid

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FOIA EXHIBIT

See June 6, 1996 Testimony ... Page 2, ¶ 1

MOORHEAD
STATE UNIVERSITY

[illegible]
[illegible]

Office of Student Affairs
November [illegible], 1995

Gregory McInnis
U.S. Department of Education, Region V
Office of Financial Assistance
One Congress Center
401 South Street, Room [illegible]
Chicago, IL 60605

Dear Mr. McInnis:

This letter is in response to a complaint you received from Margaret A. Jakobson concerning Moorhead State University's compliance with the 1990 Student Right-to-Know and Campus Security Act, 20 U.S.C. The complaint alleges that Moorhead State University is not in compliance with the Federal "Campus Security Act."

Moorhead State University has been, and is, in compliance with the Student Right-to-Know and Campus Security Act.

The Complainant in her first three allegations has misinterpreted two different publications. The University not only publishes the annual Campus Security Report, (copies from 1992, 1993, 1994 and 1995 enclosed) which is our compliance document, but the University also publishes a monthly Campus Crime Profile, which is an internal campus information piece and is intended to inform the campus community of incidents and crimes. The Campus Crime Profile reports incidents differently than the FBI Uniform Crime Reporting System.

The Complainant's fourth allegation - "failure to report 'campus crime' accurately," does have some merit. The reported crime statistics in our Campus Security Reports (our compliance documents) were inconsistent. There were non-intentional errors made in the 1992-1994 reports; the crime statistics did not conform to the FBI Uniform Crime Reporting System. In error, the reports reflected crime statistics reported to our campus security. The errored statistics in the earlier reports were more inclusive in reporting crime than federally mandated. Final implementing regulations were adopted by the Department of Education on April 29, 1994 at 59 Federal Register 22314 and our error in reported crime statistics was corrected in the 1995 report.

FOIA EXHIBIT

See June 6, 1996 Testimony ... Page 2, ¶ 1.

page 2

Moorhead State University's 1996 compliance document will use the compliance information and requirements as printed in the April 29, 1994 Federal Register, Vol. 59, No. 82.

I hope this fully addresses and settles the complaint. If further information is needed, please contact me at (218) 236-2171.

Sincerely,

Dr. Steven V. Butler
Vice President for Student Affairs

SVB/smm

cc: President Roland Barden

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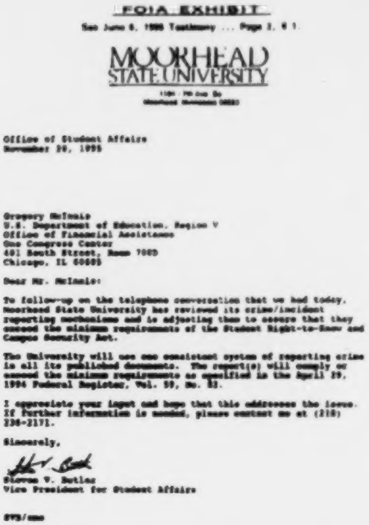
EXHIBIT

[House Sub-Committee on Post-Secondary Education, Training and Life-Long Learning ... June 6, 1996]

Page 2, ¶ 1



FOIA EXHIBIT

See June 6, 1996 Testimony ... Page 2, ¶ 1.

MOORHEAD STATE UNIVERSITY

Office of Student Affairs
November 29, 1995

Gregory McInnis
U.S. Department of Education, Region V
Office of Financial Assistance
One Congress Center
401 South Street, Room 7009
Chicago, IL 60605

Dear Mr. McInnis:

To follow-up on the telephone conversation that we had today, Moorhead State University has reviewed its crime/incident reporting mechanisms and is adjusting them to assure that they exceed the minimum requirements of the Student Right-to-Know and Campus Security Act.

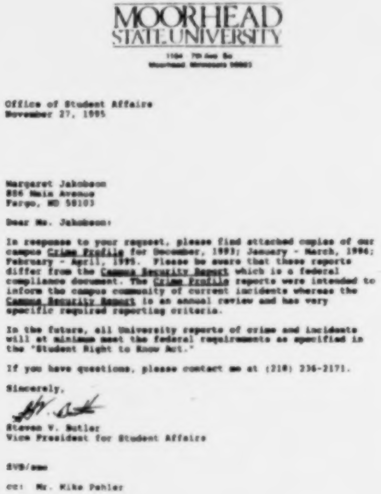
The University will use one consistent system of reporting crime in all its published documents. The report(s) will comply or exceed the minimum requirements as specified in the April 29, 1994 Federal Register, Vol. 59, No. 82.

I appreciate your input and hope that this addresses the issue. If further information is needed, please contact me at (218) 236-2171.

Sincerely,

Steven V. Butler
Vice President for Student Affairs

SVB/amo



MOORHEAD STATE UNIVERSITY

Office of Student Affairs
November 27, 1995

Margaret Jakobson
806 Main Avenue
Fargo, ND 58103

Dear Ms. Jakobson:

In response to your request, please find attached copies of our campus Crime Profile for December, 1993; January - March, 1994; February - April, 1995. Please be aware that these reports differ from the Campus Security Report which is a federal compliance document. The Crime Profile reports were intended to inform the campus community of current incidents whereas the Campus Security Report is an annual review and has very specific required reporting criteria.

In the future, all University reports of crime and incidents will at minimum meet the federal requirements as specified in the "Student Right to Know Act."

If you have questions, please contact me at (218) 236-2171.

Sincerely,

Steven V. Butler
Vice President for Student Affairs

SVB/amo

cc: Mr. Mike Pehler

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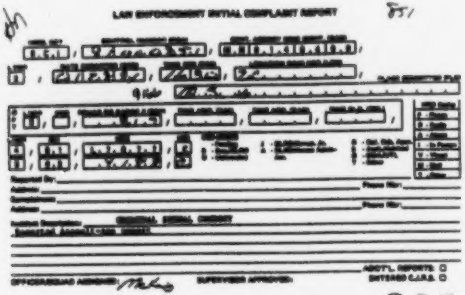
EXHIBIT

[House Sub-Committee on Post-Secondary Education, Training and Life-Long Learning ... June 6, 1996]

Page 2, ¶ 6[1]



LAW ENFORCEMENT INITIAL COMPLAINT REPORT

851

Reported By: ______ Phone No.: ______

Address: ______

Complainant: ______

Address: ______ Phone No.: ______

Incident Description: CRIMINAL SEXUAL CONDUCT

ADD'L. REPORTS: ○

ENTERED C.J.R.S. ○

OFFICER/SQUAD ASSIGNED: ______ SUPERVISOR APPROVED:

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Campus Security Report

1993 Campus Security Report

Building Security:
University facilities are open throughout the day. Some buildings are open during the evening hours and a few are open 24 hours a day. Security staff patrol the buildings beginning at 6 p.m. After 11 p.m. and throughout the night the staff patrols the buildings to ensure the buildings are properly secured.

Residence Halls:
Normally, the residence hall exterior doors are secured on a 24 hour basis. Visitors are encouraged to notify their hosts of their arrival from one of the exterior telephones located in the residence hall entrances. These telephones also serve as emergency telephones by providing an individual immediate contact with the Security Office.

Community Responsibility:
The cooperation, involvement and personal support of students, faculty and staff in a campus safety and security program are crucial to the success of the program. Everyone must assume responsibility for their own personal safety and the security of their personal belongings by taking simple, common sense precautions. The community's awareness of their environment and their surroundings is the place to start.

MAJOR REPORTED CRIME
Following is the statistical report for criminal activity reports on the campus of Moorhead State University for 1990-1992.

Crime Category	1990	1991	1992
Aggravated Assault	0	0	7
Alcohol Arrests	NA	30	6
Burglary	1	2	0
Drug Arrests	0	0	3
Motor Vehicle Theft	0	0	2
Murder	0	0	0
Rape	0	0	0
Robbery	0	0	0
Weapons Violations	5	1	2

TELEPHONE NUMBERS:

Moorhead Police Department........emergency......9-911
non-emergency...299-5111
Campus Security..........2449
Housing & Security Office..........2118

Prepared by the Housing & Security Office, Student Affairs Division

Moorhead State University is an equal opportunity employer/educator

EXHIBIT

[House Sub-Committee on Post-Secondary Education, Training and Life-Long Learning ... June 6, 1996]

Page 2, ¶ 6[7]

DVOCATE

eekly for the Moorhead State University Community — Thursday, April 22, 1993

Bowed over

Sheri Schoenborn stretches before running the 100-meter dash last Friday at the MSU Invitational. A freshman, Schoenborn said, "It seems with only four upperclassmen, we have to take more of a leadership role." See Schoenborn story, page 8.

Do you want to have sex?

[illegible]

If you can't ask your partner that question, you shouldn't be having it, said Jennifer Gruber, founder of the new campus organization T.A.S.C.

T.A.S.C., which stands for Talking About Sex and Communication, is forming to enlighten, inform and warn students about the good and bad points of relationships and sex.

Gruber, an MSU junior from Ramsey, Minn., majoring in theater, says ignorance is the biggest problem, and that by talking about sex and communicating feelings, people will act more responsibly.

"A lot of rapes and assaults aren't reported," Gruber said. "In 20 minutes I made a list of 23 women I know who've been sexually assaulted or raped."

A frustrated Gruber rattles off these statistics as if they are numbingly normal. For her, they may be. "I've been sexually assaulted myself," she said.

She said the campus statistics on rape do not nearly tell the story of this growing problem. Last year, the 1992 MSU Campus Crime Report showed in 1991 three rapes and three sexual assaults, but these were the only "official" rapes and sexual assaults.

"Most rapes and assaults aren't reported," Gruber said. "And that's why there is such a great need for support and communication."

"But we're not a group that just talks about sexual assault," Gruber said. "We make students more aware of things like STDs (sexually transmitted diseases), birth control, homosexuality, and most of all communication."

T.A.S.C., page 9

Note: Gruber is a statistic

See: MSU 1994 CSA Yearly Evidence Ø 1991 Rapes or Sexual Assaults

MOORHEAD STATE UNIVERSITY

1994 CAMPUS SECURITY REPORT

MAJOR REPORTED CRIME
Following is the statistical report for criminal activity reported on the campus of Moorhead State University for 1991-1993.

Crime Category	1991	1992	1993
Aggravated Assault	0	7	7
Alcohol Arrests	30	6	3
Burglary	2	0	0
Drug Arrests	0	3	0
Motor Vehicle Thefts	0	2	3
Murder	0	0	0
Sexual Assaults*			
First Degree	0	0	0
Second Degree	0	0	0
Third Degree	0	0	0
Fourth Degree	0	0	0
Fifth Degree	0	0	0
Robbery	0	0	0
Weapons Violations	1	2	1

*Note: Under state law, sexual assault broken down by degree starting in May of 1993.

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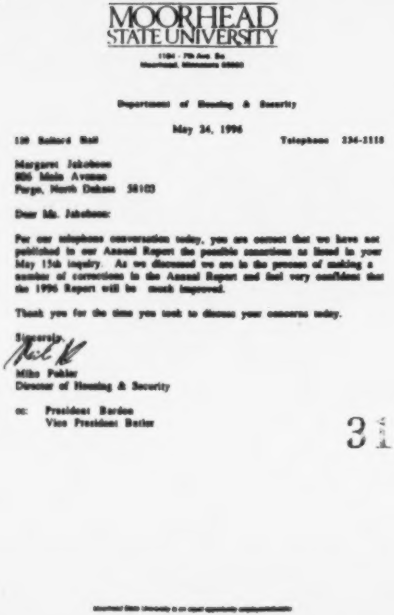
EXHIBIT

[House Sub-Committee on Post-Secondary Education, Training and Life-Long Learning ... June 6, 1996]

Page 2, ¶ 6



MOORHEAD
STATE UNIVERSITY

Department of Housing & Security

May 24, 1996

100 Ballard Hall   Telephone 236-2118

Margaret Jakobsen
806 Main Avenue
Fargo, North Dakota 58103

Dear Ms. Jakobsen:

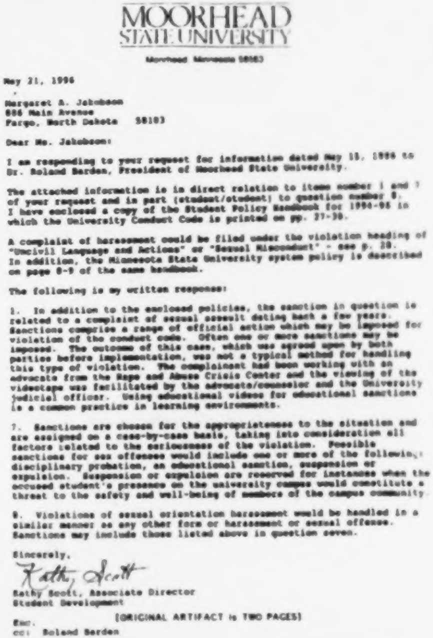
Per our telephone conversation today, you are correct that we have not published in our Annual Report the possible sanctions as listed in your May 15th inquiry. As we discussed we are in the process of making a number of corrections in the Annual Report and feel very confident that the 1996 Report will be much improved.

Thank you for the time you took to discuss your concerns today.

Sincerely,

Mike Pehler
Director of Housing & Security

cc: President Barden
Vice President Butler



MOORHEAD
STATE UNIVERSITY

Moorhead, Minnesota 56563

May 21, 1996

Margaret A. Jakobsen
806 Main Avenue
Fargo, North Dakota 58103

Dear Ms. Jakobsen:

I am responding to your request for information dated May 15, 1996 to Dr. Roland Barden, President of Moorhead State University.

The attached information is in direct relation to items number 1 and 7 of your request and in part (student/student) to question number 8. I have enclosed a copy of the Student Policy Handbook for 1994-96 in which the University Conduct Code is printed on pp. 27-30.

A complaint of harassment could be filed under the violation heading of "Uncivil Language and Actions" or "Sexual Misconduct" - see p. 28. In addition, the Minnesota State University system policy is described on page 8-9 of the same handbook.

The following is my written response:

1. In addition to the enclosed policies, the sanction in question is related to a complaint of sexual assault dating back a few years. Sanctions comprise a range of official action which may be imposed for violation of the conduct code. Often one or more sanctions may be imposed. The outcome of this case, which was agreed upon by both parties before implementation, was not a typical method for handling this type of violation. The complainant had been working with an advocate from the Rape and Abuse Crisis Center and the viewing of the videotape was facilitated by the advocate/counselor and the University judicial officer. Using educational videos for educational sanctions is a common practice in learning environments.

7. Sanctions are chosen for the appropriateness to the situation and are assigned on a case-by-case basis, taking into consideration all factors related to the seriousness of the violation. Possible sanctions for sex offenses would include one or more of the following: disciplinary probation, an educational sanction, suspension or expulsion. Suspension or expulsion are reserved for instances when the accused student's presence on the university campus would constitute a threat to the safety and well-being of members of the campus community.

8. Violations of sexual orientation harassment would be handled in a similar manner as any other form or harassment or sexual offense. Sanctions may include those listed above in question seven.

Sincerely,

Kathy Scott

Kathy Scott, Associate Director
Student Development

[ORIGINAL ARTIFACT is TWO PAGES]

Enc.
cc: Roland Barden

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EXHIBIT

[House Sub-Committee on Post-Secondary Education, Training and Life-Long Learning ... June 6, 1996]

Page 2, ¶ 6[5]

MOORHEAD
STATE UNIVERSITY
1104 7th Ave So
[illegible]

Department of Housing & Security

May 22, 1996

130 Ballard Hall
Telephone 236-2118

Margaret Jakobson
806 Main Avenue
Fargo, North Dakota 58103

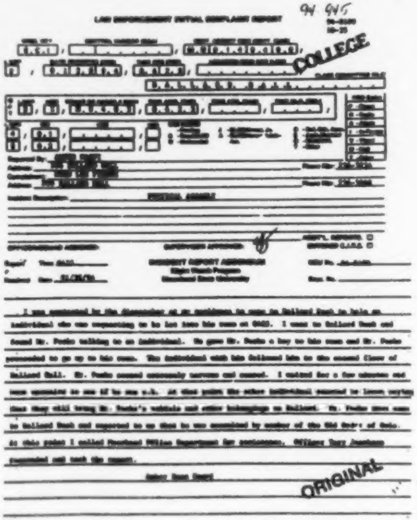
Dear Ms. Jakobson:

In response to your request to President Barden dated May 15, 1996 I have reviewed our records. For the calendar years of 1992, 1993, 1994 there were no crimes covered by the Campus Security Act of 1990 reported at the Regional Science Center or at any of the off-campus facilities covered by the Act.

Sincerely,

Mike Pehler
Director of Housing & Security

cc: President Barden
Vice President Butler



94 945

COLLEGE

ORIGINAL

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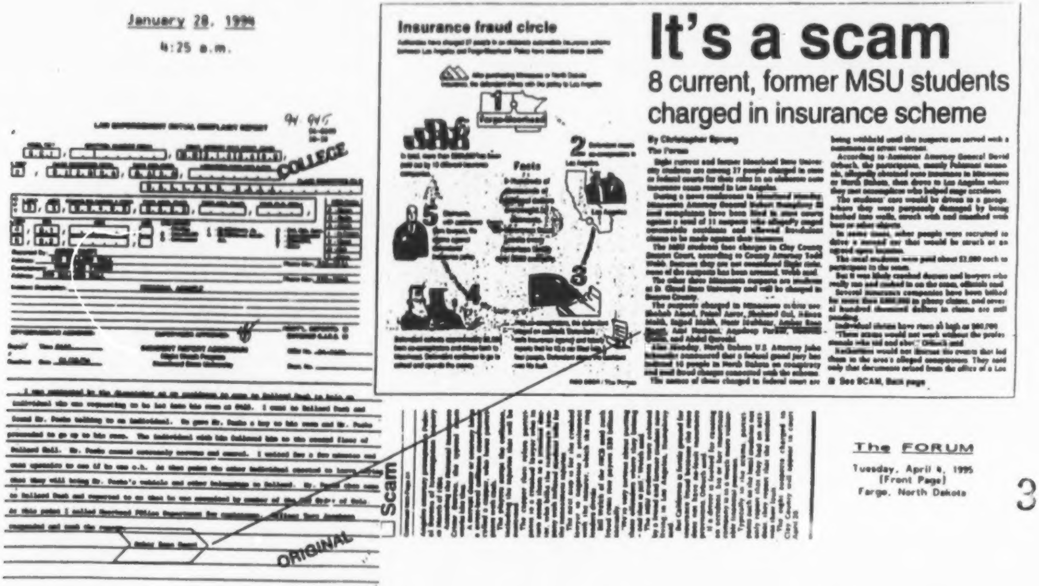
EXHIBIT

[House Sub-Committee on Post-Secondary Education, Training and Life-Long Learning ... June 6, 1996]

Page 3, ¶ 1[1]

January 28, 1994

4:25 a.m.



94 045

COLLEGE

ORIGINAL

Insurance fraud circle

Facts

It's a scam

8 current, former MSU students charged in insurance scheme

See SCAM, Back page

Scam

The FORUM

Tuesday, April 4, 1995

[Front Page]

Fargo, North Dakota

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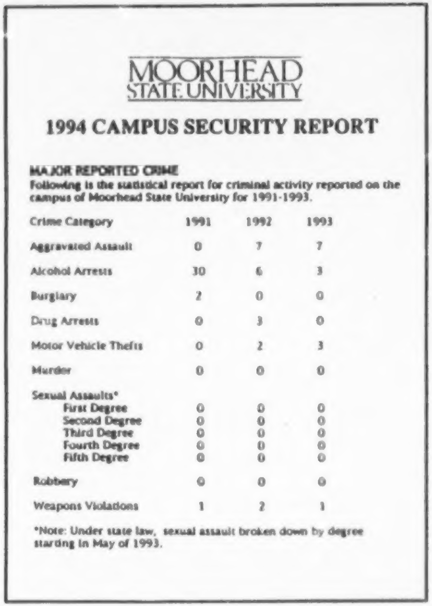
EXHIBIT

[House Sub-Committee on Post-Secondary Education, Training and Life-Long Learning ... June 6, 1996]

Page 3, ¶ 1[7]



MOORHEAD
STATE UNIVERSITY

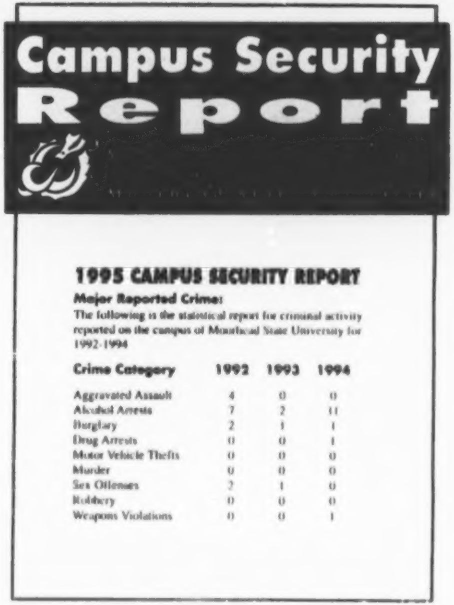
1994 CAMPUS SECURITY REPORT

MAJOR REPORTED CRIME

Following is the statistical report for criminal activity reported on the campus of Moorhead State University for 1991-1993.

Crime Category	1991	1992	1993
Aggravated Assault	0	7	7
Alcohol Arrests	30	6	3
Burglary	2	0	0
Drug Arrests	0	3	0
Motor Vehicle Thefts	0	2	3
Murder	0	0	0
Sexual Assaults*			
First Degree	0	0	0
Second Degree	0	0	0
Third Degree	0	0	0
Fourth Degree	0	0	0
Fifth Degree	0	0	0
Robbery	0	0	0
Weapons Violations	1	2	1

*Note: Under state law, sexual assault broken down by degree starting in May of 1993.



Campus Security Report

1995 CAMPUS SECURITY REPORT

Major Reported Crime:

The following is the statistical report for criminal activity reported on the campus of Moorhead State University for 1992-1994

Crime Category	1992	1993	1994
Aggravated Assault	4	0	0
Alcohol Arrests	7	2	11
Burglary	2	1	1
Drug Arrests	0	0	1
Motor Vehicle Thefts	0	0	0
Murder	0	0	0
Sex Offenses	2	1	0
Robbery	0	0	0
Weapons Violations	0	0	1

Page 3, ¶ 1[3]

EXHIBIT

House Sub-Committee on:
Post-Secondary Education,
Training
and
Life-Long Learning
June 6, 1996

18 U.S.C. §1001

"Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years or both."

18 U.S.C. §371

"If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined not more than $10,000 or imprisoned not more than five years or both."

BEST COPY AVAILABLE

EXHIBIT

[House Sub-Committee on Post-Secondary Education, Training and Life-Long Learning ... June 6, 1996]

Page 3, ¶ 5

1995 CAMPUS SECURITY REPORT

[illegible]

1. [illegible]
2. [illegible]
3. [illegible]
4. [illegible]
5. [illegible]
6. [illegible]

Source: Security Staff Manual

POLICY ON DEATH OF A STUDENT:

[illegible]

1. [illegible]
2. [illegible]
3. [illegible]
4. [illegible]
5. [illegible]
6. [illegible]
7. [illegible]
8. [illegible]
9. [illegible]

[illegible]

10. [illegible]
11. [illegible]
12. [illegible]
13. [illegible]

POLICY ON STUDENT CONDUCT/ DISCIPLINE:

1. [illegible]
2. [illegible]

[illegible]

POLICY ON HOUSING AND SECURITY STUDENT STAFF DISCIPLINE:

[illegible]

1. [illegible]
2. [illegible]
3. [illegible]
4. [illegible]

[illegible]

POLICY ON WEAPONS ON CAMPUS:

[illegible]

[illegible]

POLICY ON CRIME PREVENTION PROGRAMMING AND INFORMING THE CAMPUS COMMUNITY ABOUT CRIMINAL ACTIVITY:

[illegible]

[illegible]

[illegible]

CAMPUS WARNINGS:

[illegible]

POLICY ON THE RELEASE OF INFORMATION:

1. [illegible]
2. [illegible]
3. [illegible]
4. [illegible]

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EXHIBIT

[House Sub-Committee on Post-Secondary Education, Training and Life-Long Learning ... June 6, 1996]

Page 4, ¶ 1

CAMPUS CRIME PROFILE

MOORHEAD STATE UNIVERSITY DECEMBER 1992

CRIME PREVENTION TIPS

Crime prevention is especially important during the holiday season when the occurrence of theft increases. Listed below are some prevention tips that can help to keep you from becoming a victim.

SECURE VALUABLES: Keep your purse, wallet, or other valuable items with you *at all times or locked* in a drawer or closet. It only takes a few seconds for a theft to take place.

SECURE YOUR KEYS: Keep personal and University keys secure *at all times*. Do not loan your keys.

LOCK YOUR OFFICE: Make sure your office is locked when you leave. Do not rely on someone else to do it. Report broken locks, windows and lights to the maintenance department and make sure they're promptly repaired or replaced.

PERSONAL SAFETY: If you must work or study late or at odd hours, walk with a group or ask a friend or security officer to escort you to your car or home. Night watch escorts are available between 6:00 PM and 8:00 AM daily and during day hours under special circumstances. Officers will respond as quickly as possible and can give escorts within a few blocks off campus.

Night Watch Program / Campus Security
236-2449
Moorhead Police
299-5111 or
9-911

PRELIMINARY SECURITY REPORTS - NOVEMBER

CRIMES REPORTED AS REQUIRED BY FEDERAL LAW*

OFFENSES	11/91	11/92
Aggravated Assault	0	1
Auto Theft	0	0
Burglary	1	0
Drug Abuse Violation	0	0
Liquor Law Violation	2	0
Murder	0	0
Robbery	0	0
Sexual Assault		
First Degree	0	0
Second Degree	0	0
Third Degree	1	0
Fourth Degree	0	1
Fifth Degree	0	0
Weapons Violation	0	0

OTHER OFFENSES PUBLISHED FOR YOUR INFORMATION*

OFFENSES	11/91	11/92
Disorderly Conduct	0	1
Theft	9	3
University Alcohol Violation	10	0
Vandalism	11	10

*[illegible]

CAMPUS CRIME PROFILE

MOORHEAD STATE UNIVERSITY NOVEMBER 1995

AUTO VANDALISM

There has been a large number of vandalisms to vehicles on and off campus during fall semester. Here are some tips for protecting your vehicle from vandalism.

Always try to park your vehicle in a well lighted area.

Keep your vehicle locked and never leave your keys in the vehicle.

Avoid leaving valuable or bulky items in your vehicle in plain view. Either put them in the trunk or taken them with you.

BROCHURE OF THE MONTH

The enclosed safety and security guide addresses tips for vehicle maintenance and what to do if you get stranded in your vehicle in the upcoming winter months. Additional brochures can be picked up at the campus security office in Ballard Hall.

LETTER TO FACULTY AND STAFF

Because of the size of the MSU community and the Night Watch Program, it has becoming impossible to recognize everyone on sight. Occasionally, you may be asked to show your current MSU identification to a security officer. In no way are the officers challenging your employment status or departmental authority. They are simply trying to identify and remove unautorized personnel during their routine building inspections.

PRELIMINARY SECURITY REPORTS - OCTOBER

CRIMES REPORTED AS REQUIRED BY FEDERAL LAW*

OFFENSES	10/94	10/95
Aggravated Assault	0	0
Auto Theft	0	0
Burglary	0	0
Criminal Sexual Conduct		
Forcible Rape	0	0
Forcible Sodomy	0	0
Sexual Assault With An Object	0	0
Forcible Fondling	0	0
Sex Offenses, Non forcible	0	0
Drug Abuse arrest	0	0
Liquor Law arrest	0	0
Murder	0	0
Robbery	0	0
Weapons Violation	0	0

OTHER OFFENSES PUBLISHED FOR YOUR INFORMATION*

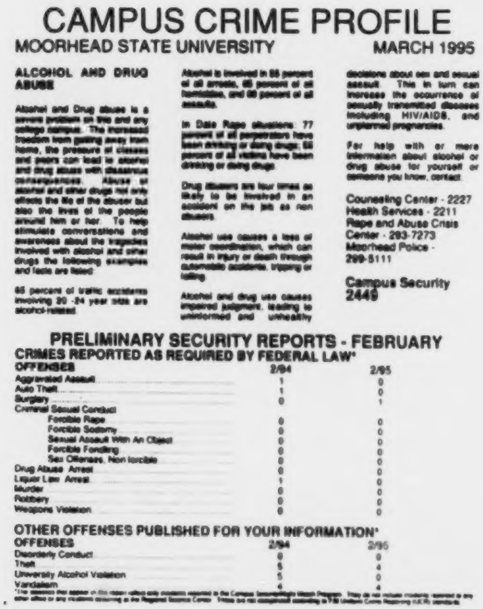
OFFENSES	10/94	10/95
Disorderly Conduct	0	1
Theft	10	8
Vandalism	16	7

*[illegible]

EXHIBIT

[House Sub-Committee on Post-Secondary Education, Training and Life-Long Learning ... June 6, 1996]

Page 4, ¶ 2



CAMPUS CRIME PROFILE

MOORHEAD STATE UNIVERSITY MARCH 1995

ALCOHOL AND DRUG ABUSE

Alcohol and Drug abuse is a severe problem on this and any college campus. The increased freedom from getting away from home, the pressure of classes and peers can lead to alcohol and drug abuse with disastrous consequences. Abuse of alcohol and other drugs not only effects the life of the abuser but also the lives of the people around him or her. To help stimulate conversations and awareness about the tragedies involved with alcohol and other drugs the following examples and facts are listed:

[illegible] percent of traffic accidents involving 20 -24 year olds are alcohol-related.

Alcohol is involved in [illegible] percent of all arrests, [illegible] percent of all homicides, and [illegible] percent of all assaults.

In Date Rape situations: 77 percent of all perpetrators have been drinking or doing drugs; [illegible] percent of all victims have been drinking or doing drugs.

Drug abusers are four times as likely to be involved in an accident on the job as non abusers.

Alcohol use causes a loss of motor coordination, which can result in injury or death through automobile accidents, tripping or falling.

Alcohol and drug use causes impaired judgment, leading to uninformed and unhealthy decisions about sex and sexual assault. This in turn can increase the occurrence of sexually transmitted diseases including HIV/AIDS, and unplanned pregnancies.

For help with or more information about alcohol or drug abuse for yourself or someone you know, contact:

Counseling Center - 2227
Health Services - 2211
Rape and Abuse Crisis Center - 293-7273
Moorhead Police - 299-5111

Campus Security 2449

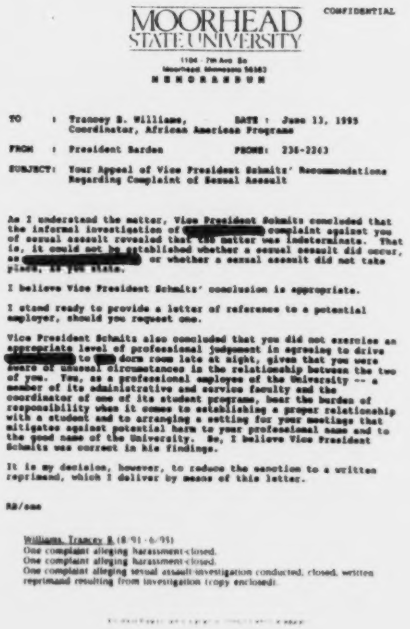
PRELIMINARY SECURITY REPORTS - FEBRUARY

CRIMES REPORTED AS REQUIRED BY FEDERAL LAW*

OFFENSES	2/94	2/95
Aggravated Assault	1	0
Auto Theft	1	0
Burglary	0	1
Criminal Sexual Conduct		
Forcible Rape	0	0
Forcible Sodomy	0	0
Sexual Assault With An Object	0	0
Forcible Fondling	0	0
Sex Offenses, Non forcible	0	0
Drug Abuse Arrest	0	0
Liquor Law Arrest	1	0
Murder	0	0
Robbery	0	0
Weapons Violation	0	0

OTHER OFFENSES PUBLISHED FOR YOUR INFORMATION*

OFFENSES	2/94	2/95
Disorderly Conduct	0	0
Theft	5	4
University Alcohol Violation	5	0
Vandalism	4	4



MOORHEAD
STATE UNIVERSITY

1104 - 7th Ave So
Moorhead Minnesota 56563

CONFIDENTIAL

M E M O R A N D U M

TO : Trancey B. Williams, Coordinator, African American Programs

DATE : June 13, 1995

FROM : President Barden

PHONE: 236-2243

SUBJECT: Your Appeal of Vice President Schmitz' Recommendations Regarding Complaint of Sexual Assault

As I understand the matter, Vice President Schmitz concluded that the informal investigation of [redacted] complaint against you of sexual assault revealed that the matter was indeterminate. That is, it could not be established whether a sexual assault did occur, as [redacted] or whether a sexual assault did not take place, as you state.

I believe Vice President Schmitz' conclusion is appropriate.

I stand ready to provide a letter of reference to a potential employer, should you request one.

Vice President Schmitz also concluded that you did not exercise an appropriate level of professional judgement in agreeing to drive [redacted] to [redacted] dorm room late at night, given that you were aware of unusual circumstances in the relationship between the two of you. You, as a professional employee of the University -- a member of its administrative and service faculty and the coordinator of one of its student programs, bear the burden of responsibility when it comes to establishing a proper relationship with a student and to arranging a setting for your meetings that mitigates against potential harm to your professional name and to the good name of the University. So, I believe Vice President Schmitz was correct in his findings.

It is my decision, however, to reduce the sanction to a written reprimand, which I deliver by means of this letter.

RB/ems

Williams, Trancey B. (8/91 - 6/95)
One complaint alleging harassment-closed.
One complaint alleging harassment-closed.
One complaint alleging sexual assault-investigation conducted, closed, written reprimand resulting from investigation (copy enclosed).

BEST COPY AVAILABLE

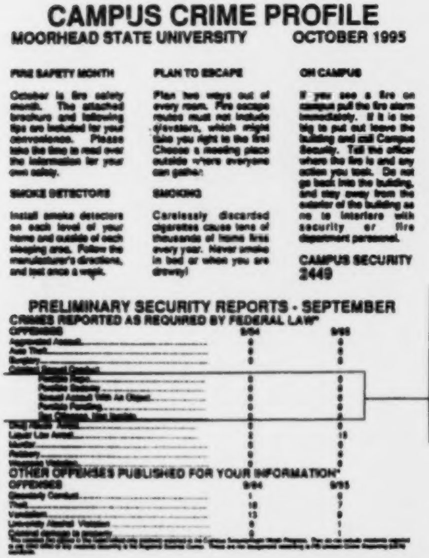
Page 1 ¶ 2

EXHIBIT

CRIME REPORTS:

[Page 1., Column 1, ¶ 5, Lines 3 - 5.]

"The reports include crimes alleged to have occurred on the campus and facilities owned or rented by recognized student organizations."



CAMPUS CRIME PROFILE

MOORHEAD STATE UNIVERSITY OCTOBER 1995

FIRE SAFETY MONTH

October is fire safety month. The attached brochure and following tips are included for your convenience. Please take the time to read over the information for your own safety.

SMOKE DETECTORS

Install smoke detectors on each level of your home and outside of each sleeping area. Follow the manufacturer's directions, and test once a week.

PLAN TO ESCAPE

Plan two ways out of every room. Fire escape routes must not include elevators, which might take you right to the fire. Choose a meeting place outside where everyone can gather.

SMOKING

Carelessly discarded cigarettes cause tens of thousands of home fires every year. Never smoke in bed or when you are drowsy!

ON CAMPUS

If you see a fire on campus pull the fire alarm immediately. If it is too big to put out leave the building and call Campus Security. Tell the officer where the fire is and any action you took. Do not go back into the building, and stay away from the exterior of the building as not to interfere with security or fire department personnel.

CAMPUS SECURITY 2449

PRELIMINARY SECURITY REPORTS - SEPTEMBER

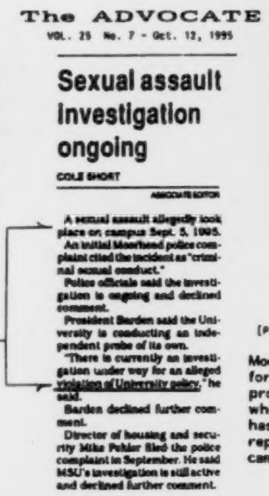
CRIMES REPORTED AS REQUIRED BY FEDERAL LAW*

OFFENSES	9/94	9/95
Aggravated Assault	0	0
Auto Theft	0	0
Burglary	0	0
Criminal Sexual Conduct		
Forcible Rape	0	0
Forcible Sodomy	0	0
Sexual Assault With An Object	0	0
Forcible Fondling	0	0
Sex Offenses, Non forcible	0	0
Drug Abuse Arrests	0	0
Liquor Law Arrests	2	10
Murder	0	0
Robbery	0	0
Weapons Violation	0	0

OTHER OFFENSES PUBLISHED FOR YOUR INFORMATION*

OFFENSES	9/94	9/95
Disorderly Conduct	1	0
Theft	10	7
Vandalism	13	0
University Alcohol Violation	6	1
Criminal damage to property	0	1

*[illegible]



The ADVOCATE

VOL. 25 No. 7 - Oct. 12, 1995

Sexual assault investigation ongoing

COLE SHORT

ASSOCIATE EDITOR

A sexual assault allegedly took place on campus Sept. 5, 1995.

An initial Moorhead police complaint cited the incident as "criminal sexual conduct."

Police officials said the investigation is ongoing and declined comment.

President Barden said the University is conducting an independent probe of its own.

"There is currently an investigation under way for an alleged violation of University policy," he said.

Barden declined further comment.

Director of housing and security Mike Pehler filed the police complaint in September. He said MSU's investigation is still active and declined further comment.

Campus Security Report

POLICY ON CAMPUS SECURITY REPORTS:

[Page 1., Column 1, ¶ 3, Lines 6 - 10.]

Moorhead State University has no formal process to follow court proceedings in order to determine whether an accused individual has been convicted of a crime reported to have occurred on the campus.

EXHIBIT

[House Sub-Committee on Post-Secondary Education, Training and Life-Long Learning ... June 6, 1996]

Page 4, ¶ 2

MOORHEAD
STATE UNIVERSITY
1104 7th Ave. So.
Moorhead, Minnesota 56563

May 22, 1996

Margaret A. Jakobson
806 Main Avenue
Fargo, ND 58103

Dear Ms. Jakobson:

President Barden asked me to respond to several items in your request for information, dated May 15, 1996. My response will address numbers 2, 3, 5, and 8 on page one of your letter, as well as the items on page 2.

* * * *

In response to your request for "public data" regarding the individuals listed on page two of your letter, the following information is provided.

Afolayan, Johnson (9/91 - 3/94)
One complaint alleging harassment-closed.
One complaint alleging harassment-investigation conducted, written reprimand issued (copy enclosed).
One complaint alleging sexual assault-investigation conducted, file pending.

REGION

MSU prof accused of sexual contact

By Dave Olson
The Forum

A Moorhead State University associate professor has been accused in Clay County District Court of engaging in non-consensual sexual contact with a student.

Johnson H. Afolayan, 48, 2408 33rd Ave. S., Moorhead, is charged with one count of criminal sexual conduct in the fifth degree.

The court complaint against Afolayan says that Moorhead police were contacted by the university's affirmative action officer in September 1993 regarding information that an associate professor had inappropriately touched a student.

In a police interview, the student told a detective that she had been in Afolayan's office on Sept. 1, 1993, when he leaned forward and placed his hands on her knees while she was sitting in a chair.

According to the complaint, Afolayan told the student that American society is too "stand-offish" and not close enough. The complaint said Afolayan proceeded to make kissing motions on the student's neck and moved his hands along her legs.

According to the complaint, the woman protested but Afolayan began touching her over her shirt and kissing her lips. The woman left the office when he attempted to move his hand under her shirt, the complaint said.

MOORHEAD
STATE UNIVERSITY
Moorhead, Minnesota 56563

May 27, 1993

Dr. Johnson Afolayan
Secondary Education and Foundations
Moorhead State University
Moorhead, MN 56563

Re: The Complain[redacted]

Dear Dr. Johnson:

The Affirmative Action Officer has completed a report on her investigation of the complaint of [redacted] The complaint alleges that you engaged in unwelcome physical conduct of a sexual nature with [redacted], allegations which you have denied.

My evaluation of the information in the Report establishes to my satisfaction a reasonable probability that the allegations are true. I am informed by the Affirmative Action Officer that this is the second complaint from a student this academic year alleging unwelcome physical conduct on your part. The potential consequences of the alleged behavior to you and to the University are so severe that I feel obligated to issue you a Written Reprimand (Article 24 of the Agreement).

I want you to avoid completely encounters with students on campus that can be perceived by the student to constitute sexual harassment.

Sincerely,

Roland B. Barden
Vice President for Academic Affairs

bcc: Barb Seiler

THE FORUM **Region** Wednesday, March 6, 1996 A11

Aneta man arrested in assault at MSU

A 27-year-old Aneta, N.D., man was arrested by Moorhead Police Tuesday morning in connection with an attempted sexual assault at Moorhead State University.

The suspect, identified as Keith A. Siracusa, was in the Clay County Jail Tuesday night pending the filing of charges, expected today.

According to the police report on the incident, a 52-year-old female MSU employee was attacked in a stairwell of Nelson Hall, a dormitory on campus, about 7:30 a.m.

The woman fought off her attacker after a brief struggle. She alerted campus police who alerted the police department.

Shortly after units responded, the suspect was apprehended in the parking lot of Nelson Hall.

Police said Siracusa was living in the residence hall but was a student at Northwest Technical College in Moorhead.

The woman told police she believes her attacker was waiting for her in the stairwell and had planned the attack. The woman said she knew who the person was who attacked her but had never had any contact with him in the past.

THE FORUM **Region** Thursday March 7, 1996 A5

Aneta man charged in assault at MSU

An Aneta, N.D., man was charged Wednesday in Clay County District Court with first-degree attempted criminal sexual conduct for allegedly trying to rape a Moorhead State University employee Tuesday.

Keith Siracusa, 27, is accused of attacking a woman and choking her in a stairwell of Nelson Hall on the MSU campus.

He was arrested Tuesday morning shortly after a woman reported having been attacked.

Siracusa is a resident of Nelson Hall but attended class at Northwest Technical College in Moorhead, police said.

The complaint stated that he has admitted to police that he planned the attack and intended to have intercourse with the woman.

He was being held in the Clay County Jail Wednesday in lieu of $20,00 bail.

SEXUAL HARASSMENT LIABILITIES OF FACULTY MEMBERS

I. Sexual Harassment: Legal Obligations

II. System Perspective on Sexual Harassment

III. Faculty Behaviors Found to be Harassing

IV. System FSSP-1 Complaint Procedure

V. IFO Grievance Perspective

MSU Response -- January 29, 1993

"It should be noted that written articles from "PLAYBOY" are considered a legitimate resource in forensics competition and have been used in competition in the past."

• • • •

One of the female forensics team-members referred to the incident "Dancing with Students" as:

"Larry stripped this week-end!"

SEXUALLY HARASSING FACULTY BEHAVIORS

- ⊙ Permitting male students to display "Playboy" on mixed-sex bus; dancing with students
- Questioning regarding personal sexual preferences
- Sexual proposition repeated at office
- Request to sleep with student at faculty/student party (off worksite)
- Sexual fondling in faculty member's office

EXHIBIT

Page 4, ¶ 4

[House Sub-Committee on Post-Secondary Education, Training and Life-Long Learning ... June 6, 1996]

EXHIBIT

Page 5, ¶ 1

STUDENT CONDUCT COMMITTEE
Orientation and Training

Ethical Standards

Since the authority for student conduct operation is delegated by the Vice President of Student Affairs, certain college guidelines regarding discipline must be observed by the student conduct boards. Violation of these standards is cause for an individual's removal from the Student Conduct Committee.

A. It is the responsibility of each conduct committee to observe the following ethical standards:

   1. Information regarding any student's disciplinary status is not to be discussed with anyone outside the conduct committee hearing. Likewise, any information given in confidence at the hearing should not be discussed outside the meeting.

   2. The disciplinary record of any student is not to be disclosed or discussed outside the conduct committee hearing.

   3. During the hearing, conduct committee members are to refrain from making accusations or statements of any kind which cannot be supported.

   4. In all hearings, the vote of each board member is confidential. Only the decision of the group is recommended.

   5. All decisions of the majority of the board must be upheld by all members of the board, even though there may be dissenting opinions.

B. It is particularly important to remember that conduct committee members become, in a sense, role models for other students. Therefore, it is especially important that members uphold and obey the regulations and policies of the college.

C. The following measures have been implemented to promote the integrity of the student conduct system:

   1. If a member of a conduct board is charged with violating a regulation, the preliminary hearing will NOT be conducted by the board on which the member serves. This will protect the individual and the board from apparent conflict of interest.

   2. If a member of a conduct board is found by the college disciplinary process to be responsible for violation of college regulations, following any appeals that may be related to the charge, the conduct board on which the member serves will be informed of the decision. The board may then decide to discuss the incident in a closed session with the member to determine if the violation would affect the credibility of the board or the conduct process. By a two-thirds majority vote of the other members of the board, one of the following sanctions may be taken:

      a. The board may decide that the matter does not warrant consideration and take no action against the member in question.

      b. The board may issue the member a warning that future violations of college policy may result in removal from the board.

      c. The board may remove the member from the board. Members so removed will be ineligible for service on any college conduct board for at least one year.

D. For reasons of excessive absences or a breach of the above ethical standards (e.g., confidentiality of information), a member may also be asked by the members of the board to discuss the problem, following the procedures and alternative sources of action as outlined in 2 above.

Any member of the board may raise questions concerning the failure of a member to follow the above Ethical Standards and call for a formal decision about the matter. However, this section is NOT meant to serve as a deterrent for honest disagreement in reaching decisions on matters before the board.

---

510 Seventeenth Street South
Moorhead, Minnesota 56560
May 30, 1996

Howard P. McKeon
House of Representatives
Sub-Committee on Post-Secondary Education
Training and Life Learning

To the Honorable Howard P. McKeon,

In October of 1995, I was involved in a conduct hearing at Moorhead State University. The conduct hearing was to decide disciplinary measures for the football team due to an offensive T-shirt which they had designed and sold. Prior to the hearing, Kathy Scott, the Associate Director of Student Development, informed me of the conduct hearing's protocol, as described in the student handbook for Moorhead State University. Ms. Scott told me that due to student record confidentiality, I would not be able to know the decision of the conduct board. Ms. Scott also told me that I could not discuss anything said by others within the hearing and if I did disciplinary measures could be taken against me.

Sincerely yours,

Joyela Kafka

Joyela Kafka

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EX IBIT

Office of the President
MOORHEAD STATE UNIVERSITY

OFFICE MEMORANDUM

TO: Campus Community

DATE: May 22, 1996

FROM: President Barden

PHONE: 236-2243

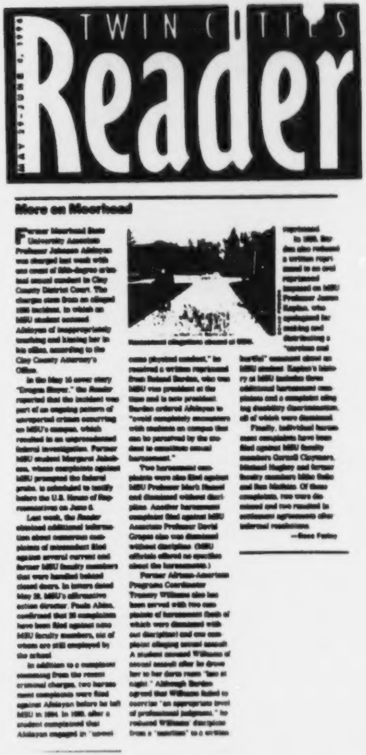
The Twin Cities Reader, a free distribution weekly publication aimed at a young-adult audience in the Minneapolis/St. Paul metropolitan area, has published an article that portrays Moorhead State University as an institution and campus that is hostile, insensitive and uncaring of women. It is an impression that is as unfair as it is inaccurate. While I would be the last person to suggest that everything is perfect, I assure you that this administration and this institution are most profoundly committed to the principles of justice, fairness and equal treatment regardless of an individual's gender.

I can state, as a matter of policy, that my administration simply will not tolerate any individual or organization that creates an environment of gender-based hostility and discomfort for women. Underlying this broad commitment to women is my firm belief that everybody who is a part of this institution has a fundamental right to a learning environment that is safe and secure. That is why we take the provisions included in the federal Campus Security Act seriously, especially the complete and accurate reporting of crime statistics. It is true, as the Reader story suggests, that officers of the U.S. Department of Education did visit our campus recently to review our methodology in the way in which we complete these reports. This was our first compliance review and it arose out of prior reporting inconsistencies. We have told the federal officials, as I now reiterate to you, that we are absolutely committed to ensuring that our annual reports are full and complete and meet, in every way, the guidelines set by the DOE for compliance. If the federal officials recommend changes in our procedures, those changes will be adopted without question or delay.

If you experience or learn of an incident that is hurtful, threatening or in any way inappropriate, please bring it to my immediate attention or the attention of one of the other officials in this administration, including Mike Pehler, Director of Security, or Barb Seiler, our Affirmative Action Officer.

In addition, while it is our practice to report all incidents alleging unwanted contact of a sexual nature to the local police authorities, we maintain an on-going involvement in the matter. We do this to ensure that the interests of justice and fairness are available to all members of our university family.

Thank you for your on-going efforts to ensure the continued success of Moorhead State University.



TWIN CITIES Reader

More on Moorhead

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EXHIBIT

MOORHEAD
STATE UNIVERSITY

1104 - 7th Ave So
Moorhead, Minnesota 56563

Office of Student Affairs
December 4, 1995

Dave Roglin
News Director
KXJB-TV, Channel 4
4302 13th Avenue South
Fargo, ND 58103

Dear Mr. Roglin:

This letter is to raise my concern and complain about the quality of your news broadcasts.

On November 30, 1995, Moorhead State University held a forum to discuss campus safety; your station covered the event. This was one of several events that were held on campus to increase awareness of gangs, violence, university safety and personal safety. The forum was a result of recent violence in our community. The forum lasted for two hours with many valuable topics and issues being presented. Issues that were discussed included Moorhead city politics, community racism, discrimination against Hispanics, gangs in our community, personal safety, neighborhood safety efforts and MSU campus safety efforts. During the forum two individuals aired their personal agendas which included allegations of harassment at MSU.

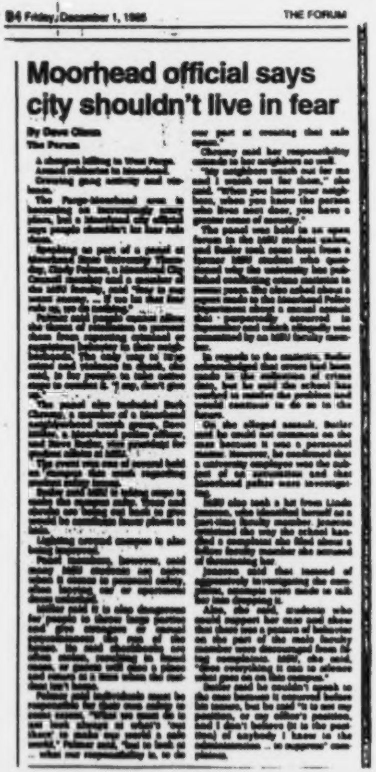
On your evening news broadcast, your reporter Matt Olien highlighted that MSU had a forum to hear complaints. You showed the only two individuals airing their personal complaints. You failed to cover the university issues. You failed to mention that Moorhead State was attempting to address the gang problem in our community. You failed to mention that representatives from the Moorhead City Council, the Moorhead City Police and the Romkey Park Community Association had come together to participate on the panel of the forum.

In conclusion, you failed to accurately or appropriately cover the event or report it to the Fargo-Moorhead community. I would hope in the future that your reporting attempts to tell the complete story.

Sincerely,

Steven V. Butler
Vice President for Student Affairs

SVB/amr



Moorhead official says city shouldn't live in fear

By Dave Olson
The Forum

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Reader

■ SHOW

Native American musicians rock their roots

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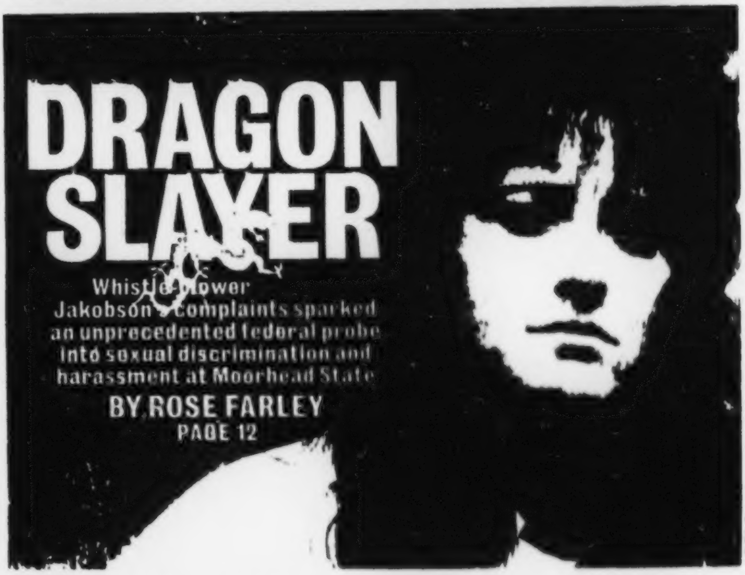

DRAGON SLAYER

Whistle-blower Jakobson's complaints sparked an unprecedented federal probe into sexual discrimination and harassment at Moorhead State

BY ROSE FARLEY

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DRAGON SLAYER

Moorhead State failed to report complaints of violence, sex discrimination and harassment. Now it has become the nation's first university to be investigated under the Campus Security Act.

BY ROSE FARLEY

PHOTOS BY BRIAN POBUDA

When two investigators from the U.S. Department of Education (DOE) arrived at Moorhead State University (MSU) on April 1 to review the university's crime statistics, they had planned to stay for two days. The brief stop, however, quickly snowballed into an unprecedented federal investigation when university officials failed to explain why they weren't reporting complaints of sexual assaults and other crimes occurring on the 104-acre campus located at the western edge of Minnesota.

During their five-day visit, the investigators interviewed students, faculty members and local law enforcement officials, making MSU the nation's first institution to be formally investigated on allegations that it is violating a federal law that requires colleges and universities to compile and publish crime statistics. The results of the investigation, expected to be released in June, could set a national precedent for compliance under the Campus Security Act, which was passed in 1990 so parents and students could better measure campus safety.

If the DOE determines that university officials intentionally [illegible] reports of campus crimes, it could impose fines and suspension of [illegible] federal funds. If there are unintentional violations, the DOE would likely [illegible] the university to take corrective measures, says David Longanecker, the U.S. assistant secretary for Post-Secondary Education.

"This is a fairly serious situation. This is really the first serious review we've had of this law since it was implemented," says Longanecker, who declined to discuss details of the investigation until the final report is published.

MSU's safety record may be no better and no worse than any other university in the country, Longanecker says. But the school's alleged failure to accurately report crimes reflects the failure of university administrators to handle criminal complaints and follow federal laws.

On May 5 and 6, *The New York Times* published a two-part series that detailed how students accused of violent crimes are rarely prosecuted in criminal courts. Instead, the cases are routinely handled behind closed doors, where student judges and administrators [illegible] administrators. Though campus conduct codes state that underage students caught drinking beer could be suspended, *The Times* reported that students accused of violent crimes often return to class without a blemish on their records.

As more evidence surfaces that educators secretly treat student criminals with kid gloves, critics say parents and students at the nation's 3,600 colleges and universities need more accurate information about campus crime. Although most campuses publish crime statistics, critics long have argued that the reported data unfairly downplays the actual number of crimes. DOE officials haven't enforced compliance with the act because, they say, they lack time and money. And, in an era of dwindling resources and skyrocketing tuition, the last thing school officials want is reports that their campuses are unsafe.

The situation at MSU is a textbook example of how student complaints — about everything from sexual harassment and sex discrimination to assault and rape — rarely are taken seriously by university and federal officials. MSU officials seem to have perfected the art of sending student complainants jumping through a series of hoops that make financial aid lines look like express checkout lanes. And even when students take their complaints to the DOE, officials there are often slow to respond, forcing students to wait months, sometimes years, before their complaints are dealt with.

That's what has happened at MSU. The MSU investigation began when former student Margaret Jakobson filed the first national complaint under the Campus Security Act in October 1992. But this isn't the first time federal officials have had to respond to trouble in Moorhead. Jakobson's complaint is just the latest skirmish in a four-year battle she's waging with MSU officials that includes three previous federal complaints.

In 1992, Jakobson accused MSU officials of sexual discrimination and sexual harassment and, subsequently, of retaliation by barring access to her student records. An award-winning former member of MSU's speech team, Jakobson also has accused university officials of violating Title IX legislation, which requires equal gender participation in any educational program receiving federal funds. Jakobson says her problems began when her forensics coach disallowed her from competing in a 1992 national tournament, even though she qualified in seven categories.

In response to Jakobson's complaints, DOE officials eventually concluded that university officials had violated Jakobson's right to access her student records and, later, that they were not complying with Title IX legislation. As a result, MSU officials signed "voluntary" agreements with the DOE, in which they pledged to take various corrective measures. Jakobson says MSU officials still are concealing some of her student records, and documents show that the university still hasn't lived up to a September 1994 agreement to increase the number of women in competitive athletics.

The recurrence of abusive student and fa[illegible] ality behavior at MSU also continues to sully the university's reputation. [illegible] time when MSU is accused of failing to [illegible] crimes on campus, another student was attacked in March in her dormitory basement by a man who was naked from the waist down. Meanwhile, the campus community is awaiting the results of an internal complaint that a male faculty member sexually assaulted a female student in September 1995. University officials have not released the name of the faculty member and they decline to discuss the details of the alleged assault.

Also in September, members of the university football team made local headlines when they sold some 200 T-shirts for the homecoming game that pictured the MSU dragon mascot raping a cheerleader above a caption that read: "Do It Dragon Style." A year earlier, several members of the Older Order of the Owls fraternity made news when they conducted an initiation ritual, during which they severely beat a male student.

Numerous MSU students and faculty members contacted by the *Reader* say campus life is defined by an atmosphere that is increasingly hostile, especially toward women. University officials, meanwhile, are accused of explaining away offensive behavior with boys-will-be-boys arguments and failing to impose adequate discipline.

"I didn't want to have to learn about the law. I didn't want to have to learn about federal regulations. I didn't want to have to learn not to trust people," says Jakobsen, who has earned an unflattering reputation for being an agitator. "I'm doing this so this never, ever happens to another woman at Moorhead State University."

Moorhead State University is one of three post-secondary schools that drive the economy of the Fargo-Moorhead community, which lies 231 miles west of the Twin Cities and is divided by the North Dakota-Minnesota border. The 150,000 residents of the sister cities describe their community as a sophisticated island amid a sea of farms where students can get settled down and get a good education.

The campus sits on a narrow, seven-block strip that runs through the center of Moorhead. A menacing, hissing bronze dragon is perched atop a pole on the southwest corner of the campus mall. Established in 1885, MSU is one of seven state universities scattered across Minnesota. The campus population includes 350 faculty members and 7,000 students, most from rural towns in Minnesota and the Dakotas. MSU's No. 1 major is "undeclared," according to one brochure.

MSU President Roland Barden and Housing and Security Director Mike Pehler sit fixed in stiff white chairs in the president's office as they field questions about why they have become the subject of an unprecedented federal investigation.

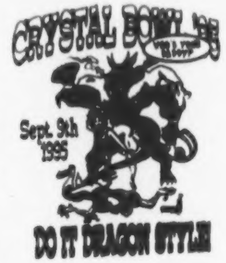
"If they [DOE] chose to visit us, we were welcome to have them come out and do a very thorough review," Barden says. "We're looking forward to a report from them that will give us a lot of advice and perhaps a few directions on how to improve our reporting processes."

Barden and Pehler concede that there are inconsistencies between the monthly and annual crime reports MSU publishes, but they claim the university has never intentionally omitted reports of crimes occurring on campus. Instead, they blame mistakes on the [illegible] ways in which the campus security guards (who are students) and the Moorhead Police Department categorize crimes.

"We have found that what appears to be was not always the [illegible]," says Pehler, who oversees the student "rovers" who patrol the campus. While Moorhead police officers respond to serious crimes and emergencies on campus, the rovers handle less serious crimes. Their reports are submitted to the Moorhead Police Department and then added into the city's overall crime statistics.

"We're waiting for the final report from the [DOE] as to whether or not there should be a different process," says Pehler, adding, "We were probably following the spirit of the law, if not the letter of the law."

Under the Campus Security Act, universities are required to publish annual reports of crimes that occur on properties owned or controlled by the university. That includes all off-campus buildings that are occupied by university groups, such as fraternities and sororities. All reported crimes must be included in the reports — whether or not they result in a conviction.



When MSU football players sold these T-shirts, Coach Ralph Micheli defended their actions, saying, "They haven't done anything illegal or immoral, just something in bad taste."

Barden and Pehler say the school's practice of publishing monthly reports (which aren't required under the law) and annual reports demonstrates that they have intended to comply with the law. They insist that their annual reports are accurate. A review of both reports published since 1991, however, reveals a pattern of omissions and inconsistencies.

In essence, MSU officials have based their annual reports on information contained in their monthly reports, which include data compiled by the school's security guards but exclude that compiled by police. And, according to a fine print disclaimer attached to each report, the monthly reports also have excluded crimes that occur at the Regional Science Center, an MSU off-campus facility. They are not compiled in accordance with FBI Uniform Crime Reporting standards, as required by the Campus Security Act.

Barden and Pehler declined to talk about the specific problems with the monthly reports, though they conceded that they have not completely complied with the law. In response to Jakobsen's complaint, MSU officials ceased publishing monthly reports in fall 1995 because they were inconsistent with the Campus Security Act. During an interview on April 29, Barden also downplayed the errors, describing them as innocent mistakes.

"In the spirit of trying to release the information we probably released it too often and didn't release a full report on the internal campus," Barden says. [illegible] of these reports, however, show that the problem is not one of over-reporting, but one of omission — particularly when violent crimes have occurred. In fact, MSU's monthly campus crime profile routinely excludes reported crimes, including:

✓ a February 1995 complaint that the director of MSU's African American Programs allegedly sexually assaulted an MSU student;

✓ four reports of sexual assaults on campus handled by the Fargo-Moorhead Rape and Abuse Crisis Center that are not reflected in monthly reports from January through October 1995; and

✓ a September 1995 complaint that another MSU fa[illegible] member sexually assaulted an MSU st[illegible]

"Part of the claim will be the continuing hostile-educational-environment issue, based on the grounds that Moorhead State University — it doesn't appear — has properly reported this complaint."

—Fargo attorney Charlie Stack

In the [illegible] case, which came to light in *The Advocate* campus newspaper in October 1995, the faculty member's name has not been reported and no criminal charges have been filed in Clay County District Court. Instead, MSU officials are handling the case behind closed doors.

"There was a complaint of a violation of university policy and it is still in course. It has not been closed, so I can't say more than that," says Barden, who has refused to provide information about the status of the complaint, even though he is required to do so under Minnesota law.

Fargo attorney Charlie Stack, who is representing the alleged victim, says he will file a civil complaint against the university later this month if efforts to reach a settlement fail. If the case goes to court, Stack says the university's policy for handling reports of sexual assaults would become an issue.

"Part of the claim will be the continuing hostile-educational-environment issue, based on the grounds that Moorhead State University — it doesn't appear — has properly reported this complaint," says Stack, who declined to discuss the case in detail. "We know that this is causing more and more problems with my client, in that she doesn't believe MSU is taking her complaint seriously by properly reporting it and dealing with the situation."

A review of MSU's last four annual reports also reveals a pattern of omissions, conflicting information and inconsistent categorization of crimes. The 1992 annual report, for example, listed three sex offenses in 1991 and two in 1992, while subsequent reports listed none for those years. In the 1994 report, no sexual assaults were listed for 1993, but the 1995 report listed one sexual assault that year. The 1995 report also listed zero aggravated assaults for 1994 even though the January 1994 assault at the Owls fraternity made front page headlines.

During the evening and early hours of January 28 and 29, 1994, the Owls began Ryan Pleski's first initiation by making him eat and vomit dog food and drink whiskey before taking him out to the country for extended runs, according to Clay County court records. The Owls also beat Pleski with a paddle, burned him with wax and choked him with a rope. On several occasions Pleski asked the Owls to stop and twice tried to escape, according to police reports.

In a victim's impact statement on file in court, Pleski wrote that he spent two weeks seeking emergency and outpatient medical care. Pleski was treated for frostbite, a pinched nerve in his neck, a broken jaw and a breakdown of the muscles in his arms due to overexertion.

"My arms swelled up to over 22 [inches] around. I could not lift my arms for almost two weeks (even to eat)," Pleski told the court, adding that as a result of publicity, the tires on his car were slashed, and he eventually was forced to drop out of school. "Every time I go somewhere (like to a job) I first have to check and make sure no Owls are there. I believe the [illegible] ruined and is still ruining my life."

While Pleski's attackers were required to pay Pleski's medical bills and complete 100 hours of community service, MSU officials will not say whether any Owls were individually disciplined. Instead, they confirm that the fraternity was suspended from official university recognition for a year, while its members were, in part, required to compile a research paper on the dangers of hazing. The fraternity has since been re-recognized as an official university organization.

(Continued on next page)

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[illegible] perfect example of the types of crimes that occur on campuses but are never reflected in campus crime reports.

[illegible] in the campus crime reports. Pehler says the case wasn't included because it doesn't qualify as a sexual assault [illegible] even though the woman who was taking a shower at the time reported it as a sexual assault.

"All she saw was the person leaving. That says, well, could have been someone who just walked in, realized they were in the wrong bathroom and walked out," says Pehler.

Could be. But critics say students need to see these cases reflected in crime reports so they are more aware of their surroundings and can take precautions to prevent more serious attacks — like one that occurred last fall in the same dormitory. On March 7, 1996, Keith Siracusa removed his pants inside a stairwell as a woman entered the [illegible] Hall's basement to take out her garbage, according to court records. Siracusa allegedly grabbed the woman by the throat, knocked her to the ground and tried to rape her.

"The victim stated that the defendant continued to choke her while she was on the floor. She also stated that during this incident the defendant was wearing rubber hospital gloves and was wearing no clothing from the waist down," the criminal complaint states. Siracusa is awaiting trial on one count of first-degree sexual assault.

MSU President Roland Barden

MSU Housing and Security Director Mike Pehler

"We're waiting for the final report from the DOE as to whether or not there should be a different process. We were probably following the spirit of the law, if not the letter of the law."

—MSU Housing and Security Director Mike Pehler

A month after Siracusa was arrested by Moorhead police, Connie and Howard Clery marked the 10th anniversary of the death of their daughter, Jeanne, who was raped and murdered inside her dorm room at Lehigh University near Allentown, Pennsylvania. As a result of the 1986 tragedy, the Clerys in 1987 founded Security on Campus (SOC), a nonprofit organization that monitors campus safety and assists victims of crime. The Clerys' efforts resulted in the passage of the 1990 Student Right to Know and Campus Security Act, but SOC spokesman S. Daniel Carter says MSU is a perfect example of why the law is still not enough.

"Their [MSU's] crime statistics don't seem large in volume, but the fact that they don't take it seriously is the problem," says Carter, who has assisted [illegible] with her complaint. "Moorhead officials are probably the most difficult to deal with that I've ever had contact with. Most officials don't like to talk much about it. But Moorhead officials haven't responded to letters."

Lt. Mike McCarthy of the Moorhead Police Department says he can't complete campus crime statistics because his computers aren't capable of segregating complaints by address. McCarthy says he believes the numbers in MSU's crime reports are accurate, but has no way to prove it.

Questions about accuracy aside, MSU's crime statistics are on a par with those reported by other campuses nationwide, according to an April 26, 1996, article in the *Chronicle of Higher Education*. The article, which printed 1994 statistics from [illegible] campuses, shows that most campus crimes involve burglaries and liquor law violations. In the categories of forcible sex offenses, however, only 14 schools reported a dozen or more offenses, while the vast majority reported zero or one. (Moorhead's figures were not included in that report, but MSU reported no sexual offenses in 1994.)

Of the campuses included in the article, the University of Minnesota's Twin Cities campus had the highest number of forcible sex offenses in the country, reporting 46 in 1994 and 32 in 1995. Next on the list is the University of Wisconsin-Madison, which reported 27 forcible sex offenses in 1994 and one in 1995.

University Police Chief Joy Rikala says the U of M's statistics are greater, in part, because it is one of the nation's largest universities. More importantly, Rikala says, a [illegible] decision to include third party reports of rape caused the U of M's numbers to skyrocket. The U of M and St. Cloud State University are among a few campuses nationwide that include sexual assault reports made by friends of victims or counselors in rape and abuse crisis centers. This methodology, Rikala says, more accurately reflects cases of date rape, where the victims are less willing to file a criminal complaint.

"We knew it was going to have a negative spin, but we weren't afraid to be honest and report our numbers," says Rikala, who adds that the current figures still likely under-report rape on campus.

Unlike the U of M, which has its own police department, many campuses' crime statistics are compiled by security offices, which reject requests for information, says Mark Goodman, executive director of the Student Press Law

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Center. The Washington, D.C., center provides legal advice to student journalists trying to access public information from [illegible] or administrators in both private and public campuses, [illegible] says.

"Nearly every college editor that I talk to says they feel certain that the [crime] reports they're getting aren't the full story, but they don't have any way to prove it," says Goodman, who adds that there are often no public reports of crimes because campus officials handle them internally rather than through the courts.

In 1992, Goodman and Minneapolis attorney Tom Schroeder assisted Lori Studriska, a former editor of Bemidji State University's Northern Student, who fought campus officials over access to campus security logs. When a security guard inadvertently gave her two years' worth of reports, "all hell broke loose" when administrators found out, Studriska says. She cross-referenced the security reports with "official" university reports and found discrepancies. "It wasn't that they [the figures] didn't match a little bit, either. They didn't match a lot."

In response, Bemidji administrators became hostile and cut off contact with the newspaper, she says. Studriska sued the university on the grounds that reporters have a constitutional right to access campus police logs. Studriska lost the case, but her action eventually helped pass a state law that makes campus security reports public data, akin to the crime statistics collected by police departments, Schroeder says.

"No one wants to get publicity to the effect that their dormitories and classrooms aren't safe," Schroeder says. "Student papers are sent out to alumni, and they're sitting there on the table during parents' day, and the last thing officials want to see is headlines about campus crimes."

Numerous MSU students and faculty say campus life is defined by an atmosphere that is increasingly hostile — especially toward women.

Thanks in part to Studriska, Minnesota is one of seven states with an "open log" law, and an increasing number of legal battles over access to campus crime statistics will likely force more campuses to open and improve their reporting methods, Goodman says. "Schools [that] engage in this kind of cover up to protect their image are sooner or later going to find themselves in very expensive lawsuits from victims, who will say you could have done more to protect me from what's going on," Goodman says. Compounding the problem, he says, is the DOE's lack of enforcement and habit of siding with campus officials in court cases.

In 1991, Goodman testified on behalf of a campus newspaper editor in Missouri who sued to get access to reports of sexual assaults on campus. In court, Goodman squared off against DOE officials, who argued that the information was protected under the Family Educational Rights and Privacy Act (FERPA), which protects students' personal data. Goodman testified that several universities have routinely reported instances of sexual assault without damaging their reputations.

"After I testified, the DOE took the names of those schools and wrote threatening letters saying they should stop releasing those reports or they could lose their funding," says Goodman, who adds that education officials routinely use FERPA to conceal crime reports. "The department really has actively worked against those who want more information about campus crime released."

In its May 5-8 series, *The New York Times* reported that university officials handle campus crimes internally because they operate under the illusion that they don't have to refer cases to the criminal justice system. The schools' motivation to conceal crimes is based on a desire to avoid [illegible] being brought to the [illegible]

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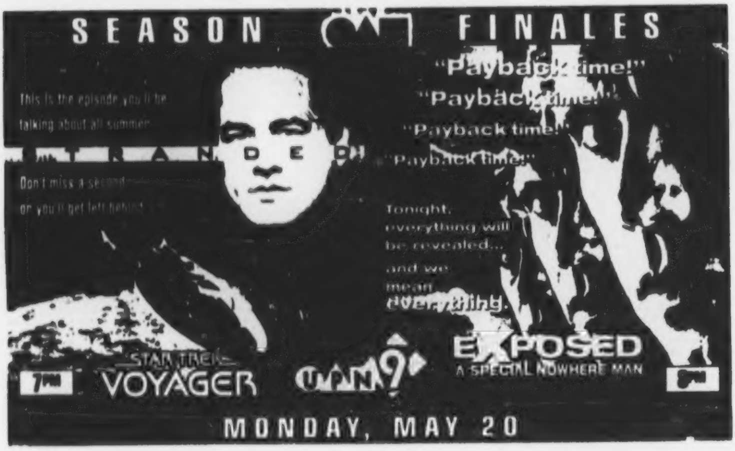

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students and victims, but it 's results in lenient discipline. Accordi The Times, Dan Abrahamowicz, the de students at the University of Toledo, recently told the 1,000-member Association for Student Judicial Affairs, "We're all afraid of being sued."

Even so, Goodman says, court rulings that favor victims are slowly forcing universities to better report and handle campus crime, particularly sexual assaults. In 1993, the Kansas Supreme Court ruled that Kansas State University had an obligation to warn students of "foreseeable dangers." The case was brought by a female student who was raped by a football player who had been accused of raping another student three weeks earlier.

In fact, the threat of student lawsuits may be more effective in fostering campus honesty about crime, since the DOE seems unwilling to use removal of federal funding to punish universities that don't comply. "In general, what we're trying to do is use the carrot before the stick," says the DOE's Longanecker. "If we find serious, intentional noncompliance, then we'll have to take more serious steps." In January, Longanecker told *The New York Times* that enforcing the security act was not a priority — even though the department was aware that many crimes, particularly sexual assaults, go unreported. Despite that, Longanecker says, universities are becoming more open to compliance with federal reporting laws.

"Initially, there was a strong sense that institutions were almost angry at the fact the law had passed," Longanecker says. "Over the last couple of years, the campus communities have come around — they're talking more about how to be in compliance and be proactive, rather than have the bitch sessions they had in the first few years."

Goodman says the DOE now appears more inclined to enforce the act, but the best indication of its newfound commitment will be the department's report on its MSU investigation. "They [DOE officials] finally see there is some political gain to be had by supporting parents and victims," Goodman says. "I don't think it's based on any philosophical change of heart. It's political expedience more than anything else, and a lot of it so far has been window dressing."

Though Longanecker says that university officials are more open to complying with the Campus Security Act, Margaret Jakobsen's post-secondary experience demonstrates anything but openness on the part of MSU officials. The extent to which Jakobsen has had to pry open the doors of the DOE also lends ample support to DOE critics, who say the department must be pricked and prodded before it will give students the time of day.

When Jakobsen enrolled at MSU in 1989 to study speech communications, she joined the university's intercollegiate forensics team. Jakobsen had dreamt of national competition since winning her first forensics tournament at age 12. She was hoping that her degree and competition record would later land her a job as a forensics coach.

Although Jakobsen qualified for a 1991 national forensics tournament, she says her coach refused to let her compete after she complained that her female teammates were not getting equal treatment. In response, Jakobsen accused MSU officials of sex discrimination and sexual harassment in a complaint she filed with the DOE. The complaint set off a four-year battle with MSU officials that included two additional DOE complaints and brought Jakobsen to Washington, D.C., where she testified before the House Committee on Education and Labor.

Margaret Jakobsen's complaints of sex discrimination and sexual harassment led to the MSU investigation.

> "Nearly every college editor that I talk to says they feel certain that the [crime] reports they're getting aren't the full story, but they don't have any way to prove it."
>
> —Mark Goodman, executive director of the Student Press Law Center

"This has been over four years of my life and three years of worthless education," says Jakobsen, who left MSU in 1992 and completed her bachelor's degree at North Dakota State University in 1994.

In her first complaint, Jakobsen accused MSU officials of violating Title IX of the 1972 Educational Amendment by not giving female forensics members equal opportunity to compete. As part of her complaint, Jakobsen demonstrated how the team's 31 female members in 1989 dwindled to seven in 1991 at a time when women steadily comprised 60 percent of MSU's student body. She also accused her coaches of sexual harassment, saying they made derogatory comments about women and failed to address complaints that some male players were comparing their female teammates to models in *Playboy* magazine.

Eight months after Jakobsen filed her first complaint, the DOE's Office of Civil Rights (OCR) said her complaint was unfounded. The OCR ignored Jakobsen's subsequent requests to reconsider until U.S. Sen. Byron Dorgan (D-Fargo) and U.S. Rep. Earl Pomeroy (D-Fargo) intervened, according to a paper trail of letters and memos sent to and from the DOE officials.

In response to Dorgan's inquiries, in December 1993, DOE decided to offer technical assistance, or advice, to MSU officials to help them deal with issues of sexual harassment, according to a letter to Dorgan from Norma Cantu, the DOE's assistant secretary for civil rights. In his correspondence with the OCR, former MSU President Roland Dille maintained th Jakobsen's complaint was "with out me th Dorgan and Jakobsen knocking at th though, Dille finally agreed to accept the DOE's offer of technical assistance in February 1994.

Not coincidentally, the OCR offer and Dille's subsequent acceptance of technical assistance came days after Jakobsen's stubbornness resulted in an unusual connection: On January 6, 1994, Jakobsen managed to get U.S. Secretary of Education Richard Riley on the telephone, at which time she explained the difficulties she was having with the department. Riley's underlings were suddenly more responsive to Jakobsen's complaints. Two months later, the DOE agreed to offer MSU officials more technical assistance on how to address issues of sex discrimination, according to a March 10, 1994, letter from Cantu to Pomeroy.

As DOE officials offered their advice, MSU officials meanwhile denied Jakobsen access to her student records, particularly her competitive forensics records — information she says she needs to get a coaching job. So Jakobsen filed another complaint with the DOE, accusing MSU officials of retaliation and requesting access to her records. In May 1994, Dille signed a voluntary agreement with the OCR, in which he pledged to immediately disclose Jakobsen's trip reports and provide an explanation for why three years' worth of competitive records disappeared. A year later, Dille still hadn't followed through. In spring 1995, the DOE concluded that MSU had violated Jakobsen's rights.

Although Jakobsen says she has yet to receive all of her files, Barden considers the matter closed. "We've been working recently to get records moved along," he says. "We feel like there are very few things, if any, that she doesn't have."

Jakobsen debated dropping her complaints and moving on, but she was concerned that her efforts on behalf of women students would be in vain. Instead, she decided to expand her attack. On April 14, 1994, Jakobsen filed a third complaint against MSU, accusing the university of violating Title IX legislation.

Jakobsen's complaint won her no friends on campus. She was ridiculed for being obsessive and accused of blowing things out of proportion. In June 1994, Jakobsen staged an informal sit-in, camping outside the president's office to bring attention to the issue. On the second evening of her protest, a campus security guard attempted to have Jakobsen arrested for trespassing. At 3 a.m., Moorhead police came to the scene, but decided an arrest wasn't appropriate.

While campus officials didn't think Jakobsen's complaints had much merit, the DOE did. In September 1994, Barden signed a five-page "voluntary" agreement promising that women would represent at least 51 percent of MSU's athletes by the end of the 1995-1996 academic school year. Though Barden says he's committed to the agreement, he is unwilling to discuss details. Instead, he says MSU's efforts are "in stream, so to speak."

Under the 1994 agreement, MSU was required to increase the number of female athletes, which included adding a women's soccer team and assessing the women's interest in sports at MSU and within its recruiting region. Based on the assessment, MSU was then required to add women's swimming and/or gymnastics.

In fall 1995, the MSU's women's soccer team began its first season, and the men's golf and tennis teams were dropped after the 1994-95 season. In addition, MSU officials slightly

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reduced the number of men's [illegible] track and [illegible] country team and placed [illegible] the number of football players [illegible] according to MSU correspondence with the OCR. As a result MSU increased its female-to-male ratio from [illegible] percent to [illegible] percent.

During a May 1993 conversation with OCR investigator Dave Blom-Dahl, [illegible] said that he was hoping to settle the agreement before Harden took over the presidency in July, according to an OCR memo from Blom-Dahl. [illegible] that Dahl's plan [illegible] accomplish [illegible] the goals.

In June 1993 MSU submitted an assessment of women's interests in participation in sports. Although MSU officials met their deadline on their findings they argued that they couldn't add a varsity gymnastics team because of a lack of interest and financial problems. Instead MSU officials recommended adding women's varsity volleyball and basketball.

"There is only one gymnastics program in our competitive area — and that program is struggling for competition and financially," MSU Athletic Director Katy Wilson wrote in a June 1994 memo to Blom. Brochures from local gymnastics clubs, however, suggest that Wilson didn't look close enough at her surroundings. There are two gymnastics clubs in Fargo, where hundreds of girls have been training year round since 1980 — the same year MSU reportedly dropped its gymnastics.

Based on Wilson's assessments, MSU was also required to submit a written plan for increasing the number of female athletes to the OCR by February 1, 1995. After missing its deadline by more than month, the OCR told MSU that its plan would not adequately increase the number of female athletes.

Even if MSU had concluded there was not enough interest to create gymnastics, the OCR had given MSU the choice of creating a women's [illegible] team instead. After [illegible] varsity [illegible] complained that creating a new team [illegible] a financial burden, the OCR gave MSU a one-year extension. When asked when the women's swimming team will be in place, Harden says the plans are "on the back burner." Although Harden expects that a coach will be hired next year, he adds, "I can't remember and don't quote me on the date."

The dragon is the mascot of MSU which was established in 1885

Under the circumstances, the kickoff of MSU's first women's soccer season could have been some cause for celebration last fall. The campus, however, became embroiled in controversy shortly before homecoming when members of the football team began selling their "Crystal Bowl 1995" T-shirts in campus facilities. Many students and faculty were outraged by the T-shirt which depicted the MSU dragon asking, "Who's your daddy?" while doing it "doggie style" to a Concordia College cheerleader.

Harden declined to comment on what type of sanctions were taken against the players, once again citing FERPA laws, but several university sources say the players were required to watch a movie about sexual harassment after a private internal disciplinary hearing. When asked last September to comment on the T-shirts, MSU football coach Ralph Micheli told *The Advocate*: "They haven't done anything illegal or immoral, just something in bad taste."

MSU student [illegible] Kafka says she received a similar response when she complained to Harden about the T-shirts. Kafka says Harden and his staff failed to inform her that she had to file a formal complaint under MSU's conduct code. "We weren't really helped that much with the whole situation," says Kafka, who adds that MSU officials later tried to dis-

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vade her from filing a complaint. "We were told things like it wasn't [illegible] us filing because the punch was post[illegible] that the issue was dead. We felt like we were blamed for not filing sooner."

Barden's handling of the T-shirt incident is typical of how complaints of sexual harassment and discrimination are handled at MSU, according to Kafka and other MSU students and faculty contacted by the *Reader*. When complaints are made, they say, MSU officials downplay the problems and belittle the complainants, while the offending students or faculty members are slapped on the wrist during internal disciplinary hearings that are kept private.

"They're not doing enough to talk about issues that involve women there and talk about why things like the T-shirts are wrong," says Kafka, who adds that the situation reflects the problems that have made MSU the subject of the landmark federal probes. "And then you read about people getting attacked in *The Advocate* but you never hear anything official about it. It's scary."

MSU humanities instructor Cindy Palmer says if MSU officials are as committed to improving campus life as they claim, they must stop concealing information in an attempt to protect their public image.

"At some point, places have legitimate reasons for not reporting information publicly. On the other hand, there are other things that simply must be reported. Unless [the information] is out, they can never act to solve the problem," says Palmer, who is also a part-time Moorhead City Council member.

Like Kafka, Palmer says MSU officials failed to inform her of the option to file a formal complaint against a former student who had threatened to harm her if she didn't give him a higher grade on a final exam in 1991. Although two campus security officers guarded Palmer until the student completed his exam and left, Palmer says the entire incident fell through the school's disciplinary cracks.

The DOE's findings will be released in June and could set a precedent for compliance with the Campus Security Act.

"That one incident has certainly helped me to be open to understanding that similar incidents, or worse, are not handled the way they should be handled," Palmer says. "There's lack of information — the people who should be providing it aren't providing it."

Whether the issue is campus crime reports or complaints of sex discrimination, Palmer says, MSU's record may not be worse than other universities, but it is an example of the failure of university administrators nationwide to handle internal complaints and follow federal laws. "This in so many ways is not about Moorhead State University. It's about how power works," Palmer says. "We're just looking at how power works in this place."

A recent informal poll by MSU's Women's Center reinforces Kafka and Palmer's view of women on campus. When asked to comment on the campus attitude toward women, more than [illegible] students responded in writing. While [illegible] students varied in their criticism of MSU officials, they agreed that sexism and misogyny are part of the daily life at MSU.

"Women feel accepted at MSU if they choose to remain ignorant. When women begin to question the roles they inhabit, the atmosphere begins to change," wrote MSU student Lori Baker, whose views summed up the letters. "Those questioned get defensive, and the women who are beginning to realize ways in which they're oppressed are discouraged."

Barden, meanwhile, says it's news to him that women students and faculty members are expressing displeasure with the atmosphere on campus. Although his staff is working to create a broader understanding of disciplinary procedures, Barden says he doesn't believe that women are serious in their criticisms.

"I regret hearing that — if you are reporting it accurately," Barden says, adding that he'll need to look into the criticisms. "All I can say is the university is working to have a safe and secure environment here. I think we have made continuous efforts and good strides toward having a campus that is fair on a gender basis or in other ways."

The public may have a much better idea of just how hard Barden and his administrators are working to make campus life safe when the DOE releases the results of its investigation into MSU next month. Until then, [illegible] and other campus members hope that the sign posted at the university's front entrance will ring true for them. It reads: "And The Truth Shall Make You Free." ●

Editorial intern [illegible] contributed to this story.

> **"Their [MSU's] crime statistics don't seem large in volume, but the fact that they don't take it seriously is the problem. Moorhead officials are probably the most difficult to deal with that I've ever had contact with."**
>
> **—SOC spokesman S. Daniel Carter**

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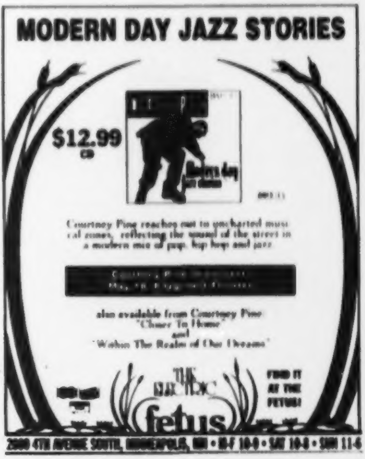
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Chairman **McKeon**. Thank you for your testimony.

We will turn now to questions. Chairman Goodling.

Chairman **Goodling**. I will pass.

Chairman **McKeon**. Ms. Woolsey.

Ms. **Woolsey**. Thank you, Mr. Chairman.

There is not much you can say after this panel and the experiences that they have gone through. I have a question. I guess it is rhetorical. This legislation we are talking about, if we are not already making the laws we have on the books work, why are we talking about something more? How are we going to enforce that?

I would like to know how to prevent what these witnesses have talked about today. I do not think what we are talking about in legislation has anything to do with it. I mean if that would help, fine, but we have got a lot of prevention to get to. We have got a lot of enforcement that has been overlooked, and I want to thank the panel for bringing this to our attention and to the attention of our country.

Thank you.

And if you would like to answer my rhetorical question.

Ms. **Jakobson**. Can I say something what everybody is saying, what the Open Campus Police Logs Act is?

Moorhead State is an open log State, but I have been denied open logs. If there was some kind of Federal push on this, you are never going to see another Campus Security Act complaint. You are just flat out not. You are guaranteed that there will never be another complainant if they are not in one of the States where they can get the evidence because they are not going to listen to just one time. There were many different times, and they were in the campus newspaper.

So that is, I guess, why I support having open logs.

Ms. **Woolsey**. Okay. I thought you said you already were an open log campus and it did not work.

Ms. **Jakobson**. Yes.

Ms. **Woolsey**. I am just suggesting we need to go beyond that also.

Ms. **Jakobson**. The reason I am saying that is at least if the Federal Government came in and said that we are important and that this is not going to happen anymore and that we are the consumers, I am sorry, but you give them $4.6 to $5.8 million, as far as the DOE figures that I have. Okay. Somebody is going to come in and say that this is consumer fraud.

Ms. **Woolsey**. You are telling me that is a good step.

Ms. **Jakobson**. Right.

Ms. **Woolsey**. A first step.

Ms. **Jakobson**. I feel that unless the school knows that there is going to be scrutiny to their actions, they really are not going to change.

Ms. **Woolsey**. Thank you.

Chairman **McKeon**. Thank you.

Mr. Green.

Mr. **Green**. Thank you, Mr. Chairman.

I do not know if you were here earlier, but I can understand your situation because, again, I have a daughter who is a senior at the University of Texas and son who is a sophomore at Texas A&M,

and the absolute fear that you have. They are away from home. The parental protectiveness that you think you can do even when they are in high school that we wish we had is just not there, and that is why it is just hard for me to comprehend why a police agency at a campus would not comply with the same requirements as a policy agency off campus.

And so if this bill will help, you know, I do not know if it will as much as we wish it because, again, I am only in my second term up here, and sometimes Congress passes laws that really do not help, but those of us in the community just like you see what happened in 1990 and your frustration with it, but I am glad you are here because without the tragedies that this panel experienced we would not see those changes, and again, they need to be not only in Federal law, but also in State law because I know in the State of Texas, you know, those agencies ask for the authority to bring police agencies on campuses, and they have the same authority, and they ought to comply with the same open logs, the same requirements whether you are a campus or whether you are a city street or a county street.

Thank you, Mr. Chairman.

Chairman MCKEON. Thank you, Mr. Green.

All of us here, I am sure, on the stand and in the audience and those who are watching can feel the pain that you have felt, your anguish, your emotion. This has been a real eye-opener for me today.

Mr. Clery, when you were reading about Utah State, Weber, Snow College, I have a daughter that was at Snow College in 1994. I did not know about the drive-by shooting.

Mr. CLERY. Of course not.

Chairman MCKEON. Again, that brought that home a little bit more to me.

I have two children at school now, and I think this has been an eye-opener to a lot of people. I think we have just kind of thought that when you went away to school you were protected and taken care of. I was not aware that the schools had some kind of an island of protection, that they were treated differently.

You know, when I open my home town newspaper it lists the people that are arrested that week for drunk driving, and here we cannot tell a student that commits rape or commits murder or other heinous crimes?

I think your recommendation, Ms. Clery, of some things that we can do when we go through and reauthorize the Higher Education Act, I guarantee you that these are things that we will be looking at this year. If there are changes that we can make that will avoid some of the pain and grief that you have had to go through for the future, we will definitely do all that we can to help in that regard.

Ms. Jakobson, did I maybe misunderstand or did I hear you to say that the Attorney General had something to do with defending these accused teachers at Moorhead?

Ms. JAKOBSON. The Attorney General at Moorhead State, and we are checking the circumstances because there appears to be a situation where at Moorhead State you can have where if it is a faculty member and a student, the affirmative action officer can be involved, and then you have where if it is student-to-student, you have a conduct officer. Then you can have where the system can be involved.

We got a settlement agreement, and we always fight the Attorney General's Office. The Attorney General's Office defends the school, and I have been told for years their position is they have to defend the State institution.

Well, this settlement agreement that we got back, and we do not have the specifics, but they had talked as an allegation of sexual harassment that they had given, and it says right on it the $20,000, and I do not think that is for you are a stupid jerk, and the Attorney General's Office had signed off on it, and the President of the University.

Now, I do not know when any Member of Congress is accused of harassing somebody or of taking and committing a crime against somebody that Janet Reno comes in, and I guess that is where when people argue we should give this all back to the States and the States are so great and everything else—where are we supposed to go?

Because you have the Attorney General's Office. Then you have the Minskew System attorney. Then you have the internal faculty organization attorney. Then you have the perpetrator attorney, and we are survivors and we have limited resources.

Chairman McKEON. Okay. You were just using an example.

Ms. JAKOBSON. I have a real life example, yeah.

Chairman McKEON. But I mean Attorney General Reno was not there defending.

Ms. JAKOBSON. No, no.

Chairman McKEON. That was just an example.

Ms. JAKOBSON. But the Minnesota Attorney General.

Mr. CLERY. She was making an analogy.

Ms. JAKOBSON. I am making an analogy. You know, I am sorry. I do not think that the school officials should be treated differently than the people here in Congress. I do not think that they should be treated differently than the guy down the street.

I do not think that you would run Howard & Phil's like this or you would not have where you had over what, 50 stores, you know? It's one of these things. I am sick. I am sick of all of it.

Chairman McKEON. Thank you.

Mr. Clery.

Mr. CLERY. Mr. Chairman, this is somewhat as much a question as a comment, but I heard a lot of complaints about how onerous this might become in terms of paperwork, and I have a hard time believing that for a lot of reasons, because of the efficiencies of what you can get out of a $1,000 laptop these days, for one, and the fact that the student editors are really going to act as a verification system. You are empowering them. There are a lot of benefits to it.

But really what kind of irks me is a lot of campuses have risk managers on their staffs. They have trained risk managers. Now, their responsibility as I understand it is to report to their insurance carrier, and the insurance carrier is certainly worried about crime.

I wonder what are they reporting to their insurance carriers. Is that different from what they are telling us? Is that different than the three colored glossy brochure that looks and feels good or reads good?

To use another analogy, the same kind of good looking pro formas that brought the S&L industry to its knees?

Chairman McKEON. Ms. Clery.

Ms. CLERY. I think if we could make the Department of Education enforce the Campus Security Act we would see tremendous compliance because there is a handful of schools that are trying to tell the truth, and I can just give you two examples of the good and the bad reporting, and I will do the bad first.

Chairman McKEON. If you could be brief, my time is up here.

Ms. CLERY. The bad is the University of Pennsylvania, which is in a war zone type situation. Philadelphia is extremely dangerous. They have 22,000-plus students on campus. In two years, 1994 and 1993, they reported one rape.

Is that complying with the law?

The University of North Carolina, Chapel Hill, has 24,000 students, comparable; compared to Philadelphia, very safe area. They reported 21 plus 18 in two years. That is almost 40, 39, 40 rapes. Obviously one is lying. That is the University of Pennsylvania, but because they are lying on their report, it makes the University of North Carolina look bad, look as if they are more dangerous, when it is just the opposite picture.

So what we are fighting for is truth, truth in reporting, complying with our laws, and justice for victims so that they are not revictimized by the administrators, like Christy Brzonkala was, like Margaret Jakobson, like so many victims who drop out of school many times because they are so leveled that they cannot handle life anymore, never mind learn on campus.

So we beg you. This is a double standard. We have the right of citizenship in our neighborhoods to find out how many crimes are happening, what sections of the cities they are happening in, and who is being charged for committing them so that the public can protect themselves.

Communities on college campuses are neighborhoods, too. Why should we allow a student who is a campus crime felon to roam the campus incognito, endanger the rest of the students? It is the right of those students to have that information to protect themselves, and if they do not have that information, especially at that age, they are not going to take the precautions.

So what I am trying to say is the very best security system, and we have seen tremendous improvement across the country since the passage of the Campus Security Act, thanks to Congressman Goodling. We have seen tremendous improvement in the policies and the technical abilities.

But what we are lacking is the truth. We need to see that the Department of Education enforces those laws so that they can be complied with. Otherwise they have wasted your time. They have wasted the time of all the people in the United States who have written to their legislators asking them to enforce these laws.

These laws were passed not because of Howard and me and Ben and Jeanne and the other victims. They were passed because people of the United States care about their kids. They want their kids to be the first priority. They are spending many times $20,000 a year. They are mortgaging their houses. One of our rape victims who was in law school at Catholic University, her father mortgaged his house and she dropped out of school after she was raped. She could not hack it anymore.

Thank you.

Chairman McKEON. Thank you.

Mr. Goodling.

Chairman GOODLING. Well, as I said earlier, we have to find some way to strengthen the backbones of college and university officials, and in order to do that, we have to find some way to deal with those who drive college and university officials to do what they do because they are afraid to do otherwise.

I do not buy a respected football coach's excuse for not doing more than he did because he was trying to save that individual student. That individual student had a history, and I can understand how you would try to deal with that student if it were the first offense and the first time, but after that that student has to understand what is right and wrong, and, above all, all other students have to learn from the example that that is unacceptable.

And I am not quite sure how we get to that point because we have a permissive society out there, but I agree that as Ms. Jakobson said, we need to deal with the issue of who is responsible. Is it the president? Is it the security officers? Who is responsible?

And then they have to pay if they do not do their job. I think that is the only way we can turn the situation around. We had the conflicting report on the first panel. I heard the lady say on three occasions that we have got to enforce the law, but when you questioned her she said, "That is not what I said," because the Secretary was saying they were enforcing the law.

I do not have a problem with the department saying, on the first hand, "This is what you are doing wrong. This is what you have to do to meet what the law says you have to meet," but I have a great problem if they do not do it immediately, then not to deal with them on the second offense.

I guess in closing I just want to thank Christy. I know it is difficult. I know it is very difficult to do what you are doing. It is also very important. If we would have more who would take the initiative that you did and do it immediately, I think we could get enough public pressure involved to really make a difference. So I can only tell you that I know that the future is going to be far brighter than it may look at the present time, and there are an awful lot of people who are going to be saying thank you to you on many, many occasions during your life because you have and you will make a difference, and I thank you.

Chairman McKEON. Thank you, Mr. Chairman.

This has been a very sobering hearing, and I think it has opened up probably more questions than it has answered, but I think that it has given us some resolve to move forward.

And I would like to thank you all for what you are doing. I think, as the Chairman stated to Christy, it is very difficult to tell these stories and stand up for your rights and the things you believe in. It seems like so many times we tend to put victims down and raise the protection of those who are committing the crimes rather than the victims, and we need to turn that around.

Yes?

Ms. CLERY. May I just make one more comment, please? Unfortunately I do not think you got the complete picture. I think Trinity College was very atypical. Crimes, according to the Chronicle of Higher Education in their last survey, the violent crimes are rising sharply, the forcible rapes, the drug crimes, and the alcohol crimes, and the aggravated assaults, and the robberies.

A small, Catholic, girls' college is certainly no way to be able to analyze this huge problem.

I am sorry.

Chairman MCKEON. I think we are aware of that. We were discussing it as we were walking back and forth from the vote. So we are aware of that, and we know that when you pick one school out of seven or 8,000, you know, there is a tendency to have some distortion there, and we will do much more than just this one hearing. We will look into this. I promise you that.

Thank you very much.

Ms. JAKOBSON. Can I say one little thing to the committee?

Chairman MCKEON. One little thing.

Ms. JAKOBSON. Just one little thing?

Chairman MCKEON. One little thing.

Ms. JAKOBSON. Do they know that there are only five Family Educational Rights and Privacy Act investigators for the entire country? And when Mr. Longanecker talks about the technical assistance, I would like to know who is going to give it because my school had asked for technical assistance in August, and they got a response in February the next year.

So I would look into this thing about FERPA because there is only one office for the country.

Chairman MCKEON. Thank you very much.

[Whereupon, at 12:23 p.m., the hearing was adjourned.]

[Additional material submitted for the record follows.]

104TH CONGRESS
1ST SESSION

H. R. 2416

To amend the Higher Education Act of 1965 to require open campus security crime logs at institutions of higher education.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 28, 1995

Mr. DUNCAN introduced the following bill; which was referred to the Committee on Economic and Educational Opportunities

---

A BILL

To amend the Higher Education Act of 1965 to require open campus security crime logs at institutions of higher education.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Open Campus Police Logs Act of 1995".

SEC. 2. DAILY RECORD AND DISCLOSURE OF REPORTED CRIMES.

(a) AMENDMENT.—Section 485(f) of the Higher Education Act of 1965 (20 U.S.C. 1092(f) is amended by adding at the end the following new paragraph:

"(8) Each institution participating in any program under this title which maintains either a police or security department of any kind shall make, keep, and maintain a daily log, written in a form that can be easily understood, recording in chronological order all crimes against persons or property reported to its police or security department, the date, time, and location of such crimes, and, if an arrest has been made, the names and addresses of all persons arrested and charges against such persons arrested. The provision of this paragraph shall not be construed to require an institution to identify in its log, unless otherwise provided by law, the names of the persons reporting the crime, the victim or victims, any witnesses or suspects who have not been arrested, or other information relating to any investigation of the crime. All entries in such daily logs shall, unless otherwise provided by State or Federal law, be open to public inspection.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on September 1, 1996.

○

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June 5, 1996

The Honorable Howard P. McKeon, Chair
Subcommittee on Postsecondary Education,
Training and Life-Long Learning
Committee on Economic and Educational Opportunities
U.S. House of Representatives
H2-230 Ford House Office Building
Washington, DC 20515

Dear Rep. McKeon:

On behalf of the Student Press Law Center, I submit the following comments to be considered in conjunction with the June 6 hearing relating to the reporting of criminal incidents on college and university campuses.

The Student Press Law Center is a non-partisan, non-profit organization established in 1974 to provide free legal assistance to student journalists around the country. The Center is the only national organization exclusively devoted to protecting the free expression and freedom of information rights of the student media. Our legal staff responds to approximately 2,000 requests a year from those seeking legal help or information. In addition to providing one-on-one assistance, the Center serves as a clearinghouse for information on legislation, cases and controversies affecting the student media.

The Campus Security Act of 1990

While the Campus Security Act was an important step in providing students and the public with accurate information about crime on America's college campuses, it was only a first step. Because of either genuine confusion about some of the Act's reporting requirements or – all too often – a deliberate and continuing attempt by some schools to hide campus crime, it is a step that some schools have yet to take in any meaningful way.

While the annual statistical report required of all schools receiving federal funding under the Act can confirm or dispel many students' suspicions about crime on their campus, it certainly does not provide the type of information that enables students to protect themselves from such crime. As one student newspaper editor told us, her school's crime statistics report was generally the source for just one story a year. She told us that while it was of some use informing students that the school reported, for example, ten on-campus sexual assaults last year, such information did not help

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alert students to the location of a sexual assault that might have happened the previous day.

Callers to the Student Press Law Center have also been frustrated by loopholes in the law that allow much criminal activity affecting students to go unreported. Many callers have complained that much of the crime involving students occurs in what might be termed "campus-related" facilities. These have included, for example, campus fraternity or sorority houses and public bars or streets located just off campus. Because this crime occurs in an area not controlled by the school, the Campus Security Act does not require that it be reported. This remains the case even where only students were involved and where campus law enforcement authorities might have been the only ones to respond.

At Howard University, for example, Craig Austin was confronted by a man with a gun in front of the school's Blackburn Activity Center in October 1992. After Austin unsuccessfully attempted to escape his assailant, he was shot, collapsed and died on the pavement of a turn-around drive that separates campus buildings. Campus officials determined that Austin had died on a public street, inches beyond the university's property line; thus his murder was not listed in school's Campus Security Act report.

One of the major causes for the underreporting of criminal incidents through the Campus Security Act is based on the Department of Education's regulations interpreting the law. The Department has determined that criminal incidents reported to campus officials with "significant counseling authority" need not be included in the school's statistics. The Department suggests that somehow the privacy of the victims of crime will be invaded if the incident of their victimization is included in a statistic, even though with no names or other indentifying information reported anonymity is never compromised. Given that many serious criminal incidents, especially sexual assaults, are first reported to counselors, the Department has given schools an effective means to avoid the reporting of a huge number of criminal incidents each year.

In addition to many schools' desperate search for loopholes to the Campus Security Act, dozens of student editors from around the nation tell us they believe the statistics reported by their campus officials are simply incorrect. Whether the result of sloppy record keeping or intentional obfuscation, these editors believe that their schools provide statistics that give a sanitized picture of the extent of crime on campus. Yet without access to campus police reports and disciplinary records, they have no way to demonstrate what the school's true statistics should be.

Access to Campus Police Logs

Many of the deficiencies associated with the Campus Security Act that have been reported to us could be reduced by the Open Campus Police Logs Act, H.R. 2416. Particularly for students at private schools that are not covered by state freedom of information laws, the Act would provide access to the type of information that can assure that they do not become the next crime victims. Crime incident logs are routinely available to all citizens when a crime occurs off-campus and is handled by public law enforcement authorities; college and university students need to have access to the same information that local law enforcement agencies provide.

The situation reported to us by a former editor of the student newspaper at Ithaca College in Ithaca, New York, is typical of the frustration felt by many private school students. Ithaca College campus police have complete jurisdiction over the 400-acre campus. The police carry guns and they have the authority to make arrests. The school's campus police department is *the* police force for Ithaca College students and the campus community. Yet, unlike the Ithaca city police or the county sheriff's department, campus police refuse to make their records open to public inspection. In short, Ithaca College police - like many of their private school colleagues - have the same police powers granted to public law enforcement authorities but none of the accountability.

Problems with the Buckley Amendment

One of the biggest roadblocks for student journalists attempting to report on campus crime has been the Family Educational Rights and Privacy Act of 1974 (FERPA), 20 U.S.C. 1232g, commonly known as the Buckley Amendment. Under FERPA, a school that releases a student's "education records" without the consent of either the student, or in some cases, the student's parents, can lose its federal funding.

Less than four years ago President Bush signed into law an amendment to FERPA clarifying that law enforcement unit records are not "education records" and thus schools could release them without violating the law. Despite that fact, many schools continue to use FERPA to justify the cover-up of information about campus crime.

College editors still occasionally call the Student Press Law Center to report that school officials are using FERPA as an excuse to block access to campus police and security department records. But since the 1992 change in the law, most schools have begrudgingly admitted that they cannot use FERPA as their justification for denying access to campus police reports.

However, hundreds of student editors have contacted us over the last three years to report that their schools continue to use FERPA to block access to campus crime information. Schools routinely use the law to prevent public access to secret campus court proceedings and records that involve serious criminal acts including arson, theft, aggravated assault, weapons violations and rape. Student journalists report that these criminal acts are often never reported to the campus or city police, and thus the public is excluded from the only forum in which the facts of these major incidents are revealed. In fact, some callers to the Student Press Law Center have told us that these criminal cases are routinely funneled into the campus judicial system at the urging of campus officials. Reporters at student newspapers in Louisiana and Texas, for example, have told us of special "response squads" of school administrators who attempt to persuade student victims not to report their incident to the police but instead to allow the school to handle the matter "in-house." These crimes never show up in a campus police log or in the annual statistical report and the details are never available to the thousands of students on campus who could become victims of the same perpetrators.

Regrettably, the Department of Education has supported schools in this interpretation of the law through its regulations for enforcement of FERPA. Despite the fact that in 1992 Congress made clear its intention to exclude campus crime information from FERPA's definition of "education records," the Department has continued to give schools this important means for hiding criminal incidents in secret campus disciplinary proceedings. (See attached letter of comment to Department of Education dated February 14, 1994.)

In sum, our work with thousands of student journalists from across the country prompts two observations:

1) Many colleges and universities will use any means available to avoid providing a full and complete picture of crime on campus. Unless the records of all criminal incidents on campus are open to public inspection and oversight there will be no way to ensure that serious crimes are not swept under the rug.

2) Through its regulations and its enforcement of the Campus Security Act and FERPA, the Department of Education has consistently aligned itself with school officials that seek to cover up campus crime. Without clear direction from Congress, the Department will continue to hinder those students, parents and members of the media who believe that full and accurate reporting of crime on campus is the best way to make colleges and universities safer places.

Thank you for your attention to our comments.

Sincerely,
Mark Goodman
Mark Goodman
Executive Director
Student Press Law Center

enclosure:
Feb. 14, 1994, letter to
Department of Education

SPLC

STUDENT PRESS LAW CENTER

Mark Goodman, Executive Director

February 14, 1994

- HAND DELIVERED -

LeRoy Rooker
Family Policy Compliance Office
Office of Human Resources and Administration
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, DC 20202-4605

Dear Mr. Rooker:

As requested by the Secretary of Education, we submit the following comments in response to the notice of proposed rulemaking issued by the Department of Education ("the Department") at 58 Federal Register 65298 (December 14, 1993) seeking additional comments to the proposed regulations to the Family Educational Rights and Privacy Act (FERPA), commonly known as the Buckley Amendment, originally issued on August 11, 1993. As we said in our initial comments dated September 27, 1993, we urge the Department to reconsider those proposed regulations, which we believe contradict the express intent of Congress to end federal roadblocks to information about campus crime.

The Student Press Law Center is a non-partisan, non-profit 501(c)(3) corporation established in 1974 to provide free legal assistance to student journalists around the country. The Center is the only national organization devoted to protecting the free expression and freedom of information rights of student-journalists. As such, its legal staff responds to over 1,600 requests a year from those seeking legal help or information. In addition to providing one-on-one assistance, the Center monitors legislation, cases and controversies affecting the student press for publication in the SPLC *Report*, the Center's magazine.

I. PRELIMINARY COMMENTS AND HISTORY

We are immediately struck by a sense of *deja vu*. The Department's proposed regulations, which, if adopted, would bar public access to the non-academic records of student "disciplinary actions or proceedings," are reminiscent of our past disagreement over access to campus crime reports. Several years ago, the Department steadfastly maintained that FERPA's "education records" definition included crime reports compiled by a campus police or security force. That

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interpretation prevented students, parents and the entire campus community from hearing important details about serious crimes such as rape, aggravated assault, robbery and murder. Despite the rulings of several courts that said FERPA did not apply to campus crime records [see, for example, *Bauer v. Kincaid,* 759 F.Supp. 575 (W.D. Mo. 1991), *Student Press Law Center v. Alexander,* 778 F.Supp. 1227 (D.D.C. 1991), *Jones v. Southern Arkansas University,* No. CIV-90-88 (Columbia County Cir. Ct., May 10, 1991)] and the fact that there was no evidence of Congressional intent to restrict access to crime information, the Department refused to rethink its position. Many believe that the Department was influenced by the desire of some college and university officials who wanted desperately to keep such information secret because they feared accurate information about crime would scare away prospective students and faculty. Whatever the motivation, the end result of the Department's interpretation was the inability of students and others to arm themselves with the information necessary to protect themselves from becoming crime victims.

In 1992, FERPA was amended by Congress to make clear that the law was never intended to shield crime information from public disclosure. Campus crime reports are not "education records."

Now, despite this Congressional clarification, and less than two years after the Department forced those concerned about campus crime to pursue costly and time-consuming litigation, it appears the Department is looking to embark on a similar path with respect to campus court records involving crime. Once again, the Department suggests its inclination to side with those who would deny the public information about campus criminal activity. And once again, the Department's regulations adopt a position already rejected by the only court that has confronted the issue, the Supreme Court of Georgia. In its decision, the court ruled that the state's freedom of information laws required the University of Georgia to open both the records and proceedings of its campus judicial courts. It also squarely fixed the limits of the term "education records" covered by FERPA

"[Campus court] records are not the type the Buckley Amendment is intended to protect, i.e., those relating to individual student academic performance, financial aid or scholastic probation." *Red and Black Publishing Company v. Board of Regents,* 427 S.E.2d 257 (Ga. 1993), citing *Bauer v. Kincaid,* 759 F.Supp. 575, 591 (W.D. Mo. 1991).

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The position taken by the Department on this issue of campus crime is in stark contrast to its actions in a more recent situation. As you know, a controversy erupted in the summer of 1993 over a statement by your office concerning the placement of student theses on library shelves without the student author's written permission. Initially, you indicated such writings were "education records" covered by FERPA. But after much concern was raised about that interpretation, you clarified the Department's position in a September 1, 1993, letter to the American Library Association Washington Office. In your letter, you said that "an institution need not obtain a student's signed and dated specific written consent to disclose or publish a thesis in the library or elsewhere at the institution. Neither the statute, the legislative history, nor the FERPA regulations require institutions to depart from established practices regarding the placement or disclosure of student theses so long as students have been advised in advance that a particular undergraduate or graduate thesis will be made publicly available as part of the curriculum requirements."

This conclusion was reached despite the fact that FERPA explicitly requires that signed written permission be obtained before education records can be released. 20 U.S.C. 1232g(b)(2)(A) The Department correctly recognized that there was never any intention by Congress in enacting FERPA to restrict public access to student theses placed in libraries. Your September 1 letter appropriately reflected Congressional intent.

In enacting these FERPA regulations, the Department's responsibility is to once again reflect Congressional intent. On the question of FERPA's application to campus crime information, that intent is clear. We strongly urge the Department to avoid another extended legal battle by amending the proposed regulations to clearly state that reports and records of criminal activity and other non-academic disciplinary conduct are *not* subject to the restrictions on disclosure embodied in FERPA.

II. STATE LAW - NOT THE FEDERAL FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT - SHOULD GOVERN THE TREATMENT OF SCHOOL DISCIPLINARY RECORDS THAT INVOLVE NON-ACADEMIC CONDUCT.

Neither FERPA nor its regulations require schools to release any records to a third party. The law's sole power is to act as a roadblock to the release of certain "education records." The question of which records are to made available to the public is and always has been an issue for state legislatures or individual schools to decide.

In its Notice of Proposed Rulemaking, the Department has asked questions relating to the public's right of access to elementary and secondary school disciplinary records and the names of students involved in disciplinary proceedings. The Department thus suggests that it is somehow responsible for determining the public's right to know. These proposed regulations will not create any right of access. They only have the ability to subvert the will of those schools or states that believe the public's interest in obtaining campus crime information is paramount.

The Student Press Law Center believes that records of criminal conduct by elementary and secondary school students should be treated like all other records of criminal activity involving juveniles. Many states have adopted laws or regulations that require special treatment of juvenile records and proceedings. Many of these provisions, however, provide for limited or full public access where the court finds there is a legitimate interest.

In the context of victims' names, there is a delicate balance between a victim's right of privacy and the public's right to know. The states have enacted different rules as to when victims names must be made available to the public. However, the U.S. Supreme Court has held that the publication of a victim's name is protected if it bears some reasonable relationship to a matter of public interest. *Florida Star v. B.J.F.*, 109 S.Ct. 2603 (1989). The commission of a crime is a legitimate public concern in which the victim plays a pivotal role. The identity and actions of the victim can be instrumental in providing the public with a full understanding of not only the legal process but also the problem of campus crime and the plight of crime victims.

The identity of those accused of criminal activity is also of vital importance to the public. College and university campuses should not serve as sanctuaries that shield adults charged with criminal activity from having to publicly answer for their actions – a privilege not extended to those outside the campus walls where the law recognizes the public's legitimate right and need to monitor the judicial treatment of criminal offenders.

There has never been a suggestion that Congress enacted FERPA or its amendments in order to protect those involved in criminal incidents on college and university campuses. The Department does not have the authority to manufacture such intent through enactment of its FERPA regulations.

III. PUBLIC ACCESS AND OVERSIGHT IS IMPORTANT TO MONITOR THE INTEGRITY OF CAMPUS JUDICIAL PROCEEDINGS AND TO PROTECT THE RIGHTS OF BOTH THE VICTIM AND THE ACCUSED. WHERE STATE LEGISLATURES OR INDIVIDUAL SCHOOLS FAVOR A POLICY OF OPENNESS, IT IS NOT THE BUSINESS OF THE DEPARTMENT TO REQUIRE SECRET COURTS.

The reasons for promoting open campus court proceedings and records are essentially twofold: first, as indicated above, many believe that the better informed the campus community is about the nature and extent of crime on campus, the better it will be able to protect itself from becoming a victim. The second but no less important reason is that of publicly monitoring the campus judicial process: ensuring that those who are subject to its authority - both crime victims and those accused of crimes - are dealt with justly and provided a fair hearing.

Public oversight is essential not only to those actually involved in a disciplinary proceeding, but to the campus judicial system itself, which must have the trust of the community it governs if it is to fulfill its role. Closed campus court doors and secret records inevitably lead to public mistrust and charges of illegal or unfair treatment. And even where such charges are baseless, the integrity of the judicial system is seriously undermined. Public opposition to Star Chamber justice is deeply ingrained in American law. *See Press-Enterprise Co. v. Superior Court*, 478 U.S. 1 (1986); *Press-Enterprise v. Superior Court*, 464 U.S. 501 (1984); *Globe Newspaper Company v. Superior Court*, 457 U.S. 596 (1982); *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555 (1980). The Department has no basis for requiring such secrecy.

The function of public oversight is perhaps even more important where campus courts are concerned. Unlike the judicial system of a local, state or federal government where the official participants, namely lawyers and judges, are specially trained, screened and usually well-versed in maintaining a fair and impartial forum, those presiding over campus disciplinary proceedings, typically school officials or even other students, are generally without such credentials. Closed campus courts are ripe for abuse - and the danger to the rights of the parties is real.

IV. RECOMMENDATION

In keeping with the intent of Congress in enacting FERPA, the Student Press Law Center urges the Department to amend its regulations to specify that reports and records of criminal activity and other non-academic disciplinary conduct relating to a disciplinary action or proceeding conducted by the educational agency or institution are *not* "education records" under FERPA, and therefore not subject to law's restrictions on disclosure.

The Student Press Law Center appreciates the attention that the Department is giving to the regulations implementing FERPA and also for the opportunity to comment.

Sincerely yours,

STUDENT PRESS LAW CENTER

Mark Goodman

Mark Goodman
Executive Director

Michael C. Hiestand
Staff Attorney

NNA NATIONAL NEWSPAPER ASSOCIATION
Since 1885

June 6, 1996

The Honorable Howard P. McKeon, Chairman
Subcommittee on Postsecondary Education, Training and Life-Long Learning
Committee on Economic and Educational Opportunities
U. S. House of Representatives
Washington, D. C. 20515

Dear Chairman McKeon:

I am writing on behalf of the National Newspaper Association, the oldest and largest national association of its kind, representing over 4,000 community newspapers, including more than a third of the daily newspapers and a majority of the weekly newspapers in the United States. As NNA's Government Relations Chairman, I applaud you for holding this important hearing on campus crime and on H. R. 2416, "The Open Campus Police Logs Act of 1995," introduced by Representative Duncan.

As I am certain you know, colleges and universities frequently deny newspapers access to information about crimes reported to their police and security departments. Fearful of negative publicity, school officials refuse to release even the most basic crime information, such as the names of arrested persons and the charges made against them.

Our members include campus and community newspapers that cover campus issues. As I am sure you can appreciate, these papers face an extremely difficult task in gathering information on campus, especially with colleges and universities unwilling to make basic crime information public.

With access to information contained in a daily police log, campus and community newspapers will be able to provide better coverage of campus crime. Right now, federally-funded colleges and universities are required to *annually* publish only *statistical* information regarding serious crimes. A newspaper should not be forced to rely on stale, statistical information.

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In fact, school officials often claim that crime information is part of a student's confidential "education record" to justify withholding it from newspapers and the public. They continue to make this claim even though in 1992 President Bush signed into law an amendment that *specifically excludes crime information compiled by campus law enforcement agencies from confidential "education records."* As a result, campus and community newspapers are unable to accurately cover crimes reported to colleges and universities, leaving students, their parents, and campus employees in the dark about serious crimes that are being committed in their communities.

Efforts to withhold crime information are paternalistic and harmful to the residents of these communities. Clearly, with a daily log requirement, it will be much more difficult for college and university officials to try to deny access to crime information.

The National Newspaper Association supports enactment of H. R. 2416, which will address a nationwide problem for campus and community newspapers by requiring open campus police logs. We look forward to working with you and members of your subcommittee to rectify these issues.

Sincerely,

Lockwood Phillips

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NNA Government Relations Chairman

ISBN 0-16-052945-X

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